

CITY OF HUNTSVILLE, TEXAS

J. Turner, Mayor



Dalene Zender, Position 1
Melissa Templeton, Position 2
Charles Forbus, Position 3
Lanny D. Ray, Mayor Pro Tem

Tom Cole, Ward 1
Mac Woodward, Ward 2
Jack Wagamon, Ward 3
Wayne Barrett, Ward 4

HUNTSVILLE CITY COUNCIL AGENDA WORK SESSION (5:30PM) REGULAR SESSION (6:00PM) TUESDAY, MAY 4, 2010

COUNCIL CHAMBERS HUNTSVILLE CITY HALL, 1212 AVENUE M

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact the City Secretary's office (936/291-5403), two working days prior to the meeting for appropriate arrangements.

WORK SESSION [5:30]

The Council will discuss budget and recycling-related items.

REGULAR SESSION [6:00PM]

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

U.S. Flag

Texas Flag: Honor the Texas Flag. I pledge allegiance to thee, Texas, one state under God, one and indivisible.

3. INVOCATION

4. PUBLIC COMMENT

5. CONSENT AGENDA

(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)

- a. Approve the minutes of the City Council meeting held on the 20th of April 2010. [Lee Woodward, City Secretary] (p. 1-6)
- b. Approve the banking and investment applications with Wells Fargo and Insured Cash Shelter Account. [Winston Duke, Director of Finance] (p. 7-17)
- c. Approve Resolution 2010-26, authorizing pay for exempt employees during a governor-declared state of emergency. [Winston Duke, Director of Finance] (p. 18-22)
- d. Approve Ordinance 2010-32, adding Park Rental fees to the FY 2009-10 Fee Schedule. [Winston Duke, Director of Finance] (p. 23-26)
- e. Authorize the City Manager to accept and implement the TxDOT Aviation Routine Airport Maintenance Grant with a 50/50 match. [Dr. Sherry McKibben, Community Development Specialist] (p. 27-40)
- f. Approve Ordinance 2010-34 amending the budget for FY09-10. [Winston Duke, Finance Director] (p. 41-44)

6. STATUTORY AGENDA

- a. *Presentation, discussion and possible action* to approve Ordinance 2010-33, amending the Tax Increment Reinvestment Zone #1 project plan and revising the boundaries of the TIRZ, 1st reading. [Dr. Wayne Barrett, TIRZ Board president] (p. 45-94)
- b. *Presentation, discussion and possible action* to retain the services of law firm of Bickerstaff Heath Delgado Acosta L.L.P. to assist and advise the City of Huntsville and the Public Utilities Director in the management, and possible uses, processes and permitting, and rights of apportioning of wastewater plant effluent return flows. [Carol Reed, Public Utilities Director, Leonard Schneider, City Attorney]
- c. *Presentation, discussion and possible action* on proposed stipulation agreement with Sam's Fast Stop Food Mart. [Leonard Schneider, City Attorney] (p. 95-97)

7. MAYOR/CITY COUNCIL AND CITY MANAGER REPORT

- a. *Presentation, discussion and possible action* on Expo Center/Indoor Arena feasibility study, including but not limited to feasibility committee member nominations and appointments. [Mayor Turner, Councilmember Forbus, Chairman of HOT Board] (p. 98-100)
- b. *Presentation, discussion and possible action* to approve the nominations of Wayne Keen, Gerald Norwood and Bill Butler to the Veterans Affairs Advisory Committee. [Mayor Turner]
- c. *Presentation, discussion and possible action* to retain the services of Ken Davis, C.P.A. for determining the allocation of fire service expenses with Walker County and authorize the City Manager to sign the necessary

- agreement. [Mayor Turner] (p. 101)
- d. *Presentation, discussion and possible action* to accept an interlocal agreement with Walker County and accept a payment of \$246,000 for fire protection services for the 2009-10 budget year. [Mayor Turner] (p. 102-106)
 - e. *Presentation, discussion and possible action* regarding performance agreement and development agreement with Ravenwood Limited, including, but not limited to, requested expansion of the TIRZ and ownership interests of Ravenwood Limited. [Councilmember Ray] (p. 107-236)
 - f. *Presentation, discussion and possible action* to instruct City Staff to review the City of Huntsville October 17, 2006 minute order to exercise its option for additional 10 MGD raw water from the Trinity River Authority until the year 2020 and to advise on current status of option, if any, and if further action is needed to confirm or repeal the option. [Councilmember Wagamon] (p. 237-282)
 - g. City Manager's Report
 1. Discussion and guidance for pursuit of a plasma trash-to-diesel and electricity plant – *special attention to slides 10-14.* (p. 283-304)
 2. Discussion regarding Going Green conference attendance.
 3. Discussion regarding Hurricane Ike round-two grants funding.
 4. Update on Well 14 repair.
 5. Update on library construction.
 6. Discussion related to working through water issues. [REDACTED]

8. PUBLIC COMMENT

9. MEDIA INQUIRIES RELATED TO MATTERS ON THE AGENDA

10. ITEMS OF COMMUNITY INTEREST

(Hear announcements concerning items of community interest from the Mayor, Councilmembers, and City staff for which no action will be discussed or taken.)

11. ADJOURNMENT

*If, during the course of the meeting and discussion of any items covered by this notice, City Council determines that a Closed or Executive session of the Council is required, then such closed meeting will be held as authorized by Texas Government Code, Chapter 551, Sections: 551.071 – consultation with counsel on legal matters; 551.072 – deliberation regarding purchase, exchange, lease or value of real property; 551.073 – deliberation regarding a prospective gift; 551.074 – personnel matters regarding the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; 551.076 – implementation of security personnel or devices; 551.087 – deliberation regarding economic development negotiation; and/or other matters as authorized under the Texas Government Code.

If a Closed or Executive session is held in accordance with the Texas Government Code as set out above, the City Council will reconvene in Open Session in order to take action, if necessary, on the items addressed during Executive Session.

CERTIFICATE

I, Kristin Edwards, Deputy City Secretary, do hereby certify that a copy of the May 4, 2010, City Council Agenda was posted on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, and to the City's website, www.huntsvilletx.gov, in compliance with Chapter 551, Texas Government Code.

DATE OF POSTING: _____

TIME OF POSTING: _____ am/pm

TAKEN DOWN: _____ am/pm

Kristin Edwards, Deputy City Secretary

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MINUTES FROM THE HUNTSVILLE CITY COUNCIL MEETING HELD ON THE 20th DAY OF APRIL 2010, IN THE CITY HALL, LOCATED AT 1212 AVENUE M IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS AT 6PM.

The Council met in a regular session with the following:

COUNCILMEMBERS PRESENT: J. Turner, Tom Cole, Mac Woodward, Jack Wagamon, Dalene Zender, Melissa Templeton, Charles Forbus, Lanny Ray, Wayne Barrett

COUNCILMEMBERS ABSENT: none

OFFICERS PRESENT: Bill Baine, City Manager; Leonard Schneider, City Attorney, Lee Woodward, City Secretary

WORKSHOP SESSION [5:30PM]

Council will discuss water policy priorities.

The Mayor called the meeting to order at 5:30pm.

Carol Reed, Director of Public Utilities, presented an overview of the City's water system components, production and recommendations.

The meeting adjourned at 5:55pm.

REGULAR SESSION* [6:00PM]

1. CALL TO ORDER

Mayor Turner called the meeting to order at 6:00pm.

2. PLEDGES OF ALLEGIANCE

3. INVOCATION

Councilmember Barrett gave the invocation.

4. PROCLAMATION

The Mayor presented a proclamation in honor of Autism Awareness Week.

5. PUBLIC COMMENT

Stan Foley, of Entergy, spoke in support of Entergy's rate increase.

6. PRESENTATION OF 2010 SURVEY RESULTS

Ray Turco of Turco and Associates (due to technical difficulties, this item was handled after the Consent Agenda.)

7. CONSENT AGENDA

(Approval of Consent Agenda authorizes the City Manager to implement each item in accordance with staff recommendations. An item may be removed from the Consent Agenda and added to the Statutory Agenda for full discussion by request of a member of Council.)

- a. Approve the minutes of the City Council meeting held on the 12th of April 2010. [Lee Woodward, City Secretary]
- b. Approve Ordinance 2010-29 to deny the Entergy rate increase, 2nd reading. [Leonard Schneider, City Attorney]
- c. Approve Ordinance 2010-30 for the Entergy rate refund, 2nd reading. [Leonard Schneider, City Attorney]
- d. Parks and Recreation Advisory Board recommends the City Council establish a Park Rental Policy and Fee similar to the one already established for the rental of the Martin Luther King Neighborhood Center. [Matt Lumpkins, Director of Community Services]
- e. Authorize the City Manager to apply for, accept, if awarded, and implement the Department of Homeland Security U.S. Citizenship and Immigration Services Citizenship and Integration Grant. [Dr. Sherry McKibben, Community Development Specialist]
- f. Authorize the City Manager to apply for, accept, if awarded, and implement the Texas Parks and Wildlife Recreation Trails Grant. [Dr. Sherry McKibben, Community Development Specialist]
- g. Authorize the City Manager to execute the Interlocal Purchasing Agreement with Purchasing Solutions Alliance. [Winston Duke]

Councilmember Forbus made a motion to approve the consent agenda. Councilmember Zender seconded the motion. Councilmember Wagamon pulled items b and d to be discussed separately. Councilmember Forbus asked for brief clarification information on items e and f. The motion passed unanimously.

Councilmember Wagamon asked for additional information from Stan Foley of Entergy on item b. Councilmember Wagamon made a motion to approve item b. Councilmember Templeton seconded the motion. The motion passed unanimously.

Councilmember Wagamon asked Matt Lumpkins, Director of Community Services, to explain the Parks and Recreation Advisory Board's recommendation. Councilmember Wagamon made a motion to approve item d. Councilmember Forbus seconded the motion. The motion passed unanimously.

8. STATUTORY AGENDA

a. *Presentation, discussion and possible action on the annual report for the fiscal year ending September 30, 2009, presented by Ken Davis. [Winston Duke, Finance Director]*

Ken Davis presented a brief report on the annual report for FY08-09 (CAFR). Councilmembers Woodward and Wagamon thanked Winston Duke, Finance Director, and his department, for their hard work, and assisting Mr. Davis' firm.

Councilmember Wagamon verified the final transfers out of the Enterprise Fund totaled \$1.6 million to other areas of the City. The Mayor asked about the medical liability contributions made (page 62 of the CAFR). He verified with Mr. Davis that this information was added to clarify future potential liability.

Councilmember Woodward made a motion to approve the report. Councilmember Forbus seconded the motion. The motion passed unanimously.

b. *Presentation, discussion and possible action on the Office of Attorney General's Motion to Intervene in the Entergy Rate Increase request. [Leonard Schneider, City Attorney]*

Leonard Schneider, City Attorney, said the Office of the Attorney General had made a request that the Council abate its (the OAG's) Motion to Intervene. He said the Council could approve or deny the Motion, abate it, or take no action. Mr. Schneider said he did not recommend the Council take no action.

Councilmember Ray said he thought the City should abate, as he felt it was the safest route. Councilmember Ray made a motion to abate the Motion. Councilmember Cole seconded the motion. Councilmember Woodward confirmed the Council could take additional action later, should it so choose.

The motion passed unanimously.

9. MAYOR/CITY COUNCIL AND CITY MANAGER REPORT

a. *Presentation, discussion and possible action on Charter Provision Section 14.10 "Nepotism." [Councilmember Forbus]*

Councilmember Forbus expressed his disagreement with the current Nepotism policy of the City, as he felt it was too restrictive in its application to boards and committees.

Leonard Schneider, City Attorney, said his review concluded the Charter nepotism policy was more restrictive than the State's, and that a Charter amendment would be required to make it less restrictive.

b. *Presentation, discussion, and possible action on HOT Board recommendation for Expo Center/Indoor Arena Feasibility Committee. (Councilmember Forbus, HOT Board Chairman, Councilmember Ray)*

Councilmember Forbus, Chair of the Hotel Occupancy Tax Board, said the Board, pursuant to a Council directive, was making recommendations for an Expo Center/Indoor Arena Feasibility Committee, and described their suggestions for the number of members, number and formation of subcommittees, and purpose and mission of the Committee as a whole. He also said there was \$30,000 that could be used, if needed, for a consultancy, but that the HOT Board had asked the City Secretary to begin compiling information from other facilities for the Committee's use. He reiterated that the Committee was for feasibility of the proposed project.

Councilmember Ray said discussion of an Expo Center/Indoor Arena had begun several years ago, as it was a directly appropriate use of HOT funds. He said the HOT Board was recommending a Committee of broad cross-section of the community. He said the charge Councilmember Forbus had read was a good structure to get the answers needed to make a good decision.

Councilmember Ray made a motion to approve the HOT Board's recommendation of the structure, guidance to the Committee, and candidates to the Mayor. Councilmember Forbus seconded the motion.

Councilmember Cole questioned the HOT Board being part of the Executive Committee and the final oversight of the Feasibility Committee, which he did not feel was objective enough. Councilmember Ray said that was part of the charge of the HOT Board, and clarified the makeup of the subcommittee, and their process. Councilmember Forbus added that the chairs of the subcommittees would also be part of the Executive Committee, and that any final approved proposal would come to the citizens for a vote.

Councilmember Woodward asked that a name in parenthesis on the draft list be removed.

The Mayor said he had consulted with the City's legal counsel, and that the Charter was very clear that the Mayor was to make nominations. He would like the structure addressed, that the HOT Board could not nominate a structure including the HOT Board in its entirety. He complimented the HOT Board on their work and some of the specificity of their charge.

Councilmember Forbus reiterated that the proposal was a recommendation. Councilmember Ray recalled the Council had voted to have the HOT Board to come up with a recommendation, which was what they had done. The Mayor said he thought there had been three important points: that it was legal, beneficial to the community, and there was a limit to the liability to the City with respect to compliance with the Charter.

Councilmember Barrett said he was concerned that the process be unambiguous, and would like to be able to vote on a recommendation that he could see everyone feel good about, but currently thought there could still be some issues to work out. He also said the proposal seemed possibly more structured in detail than perhaps the Council needed to address, that the Committee itself could work a lot of it out in relation to operation.

Councilmember Wagamon asked for a clarification of the motion, that he felt the HOT Board was asking the Council for approval, which would then be up to the Mayor. The Mayor pointed out the proposal was setting the structure of the Executive Committee. Councilmember Wagamon reiterated that the Council had tasked the HOT Board for a recommendation, and that was what the Board had returned.

Councilmember Forbus explained that the motion was a recommendation, not a directive.

Leonard Schneider, City Attorney, said he saw the key issue being that the Mayor had the power to nominate, the Council had the power to remove (or not), and the Council could ask the Mayor to consider candidates. Mr. Schneider asked if the HOT Board was asking the Council to approve the Feasibility Committee or the Executive Committee, and whether they were asking the Mayor to appoint the HOT Board to the Executive Committee.

Councilmember Woodward said he understood the HOT Board to be recommending to the Mayor, and the Mayor could then make nominations to the Council, and then the appointed Committee to then decide on their own organization.

The City Attorney asked if the Council wanted to create one Feasibility Committee and allow that committee to organize into subcommittees as it saw fit. Councilmember Forbus said he saw no problem with that, and again stated the proposal was a recommendation.

Councilmember Ray said the idea of the number of nominees and subcommittees was due to the scope of the work they were being asked to do, and accumulate accurate information. He said the Mayor could task the HOT Board to be on the committee or simply work with the Committee, and that the HOT Board's concern was to provide specific guidance and admonitions to ensure the Committee returns with a decision matrix which could be presented to potential partners and the citizenry.

Councilmember Woodward proposed an amendment to say that the Council approves the HOT Board's recommendations to the Mayor, including the HOT Board members, for the Feasibility Committee, and ask the Mayor to come back with a list of nominees at the next Council meeting, and that the Council revise the charge to the Committee. Councilmember Wagamon seconded the motion.

The Mayor acknowledged the work, effort and time the HOT Board had spent on the proposal. Councilmember Woodward also said he would like at least three Councilmembers on the Feasibility Committee.

Mr. Schneider clarified the discussion. Councilmember Forbus said again that the proposal was a recommendation.

The amendment passed with a vote of 8-1, with Councilmember Cole voting against.

The main motion passed with a vote of 8-1, with Councilmember Cole voting against.

- c. **Presentation, discussion and possible action to approve recommendations of the Tax Increment Reinvestment Zone Board, including approval of the Annual Report, Project Plan, and Finance Plan, which includes the Feasibility Analysis. Presented by Larry Cline. [Councilmember Barrett]**

Councilmember Barrett briefed the Council on the plans they were reviewing. He referred to the Annual Report (as of September 30, 2009) had a negative balance of \$25,714,95, and that the revenue due the TIRZ fund was \$2,496,26. He said the City had put its portion into the fund, and the County had escrowed its portion. Councilmember Barrett said the anticipated amount that would be owed the fund this year would be roughly \$20,000 from the City and \$14,000 from the County. He said the TIRZ Board did not approve any expenditures from the TIRZ fund. He introduced Mr. Cline.

Councilmember Woodward said the Finance Committee had reviewed the reports, and that all looked fine to them. He then asked if it was the Council's intention to recraft an Interlocal Agreement with the County, and Bill Baine, City Manager, said it was and that Mr. Cline had been retained to do so. Councilmember Woodward said

he hoped that would move forward as soon as possible.

Councilmember Barrett referred to the Project Plan, and pointed out the elimination of money for projects outside the plan when the TIRZ was redrawn, and including the right-of-way the developer paid for on the feeder road.

Councilmember Wagamon asked what the benefit to the City would be of entering into another Interlocal Agreement with the County. Councilmember Barrett said they were voting on updates based on the Council actions, not what the City may do in the future, and that the reports were needed to submit to the State. The Mayor said the Interlocal item could be on the next Council agenda.

Councilmember Ray recalled that the Interlocal Agreement was unaffected by the changes made to the TIRZ Zone #1, and had actually expired. He also verified the amount paid into the TIRZ, and the value of the property.

Councilmember Woodward said he thought the development agreement on the TIRZ was between the City and the developer, and the County passed a Resolution to participate, and, later, signed an Interlocal Agreement with the City.

Mr. Schneider said he understood the County would have to enter into an Interlocal Agreement with the City if they were to participate and transfer their escrowed funds.

Councilmember Woodward said his concern was that they were being asked to approve documents acknowledging the County's participation.

Councilmember Barrett said County representatives were at this afternoon's meeting and voted to approve the reports, which he thought could imply their intended participation. He reminded them that the filing of the documents was a compliance issue, and they were voting on the accuracy of the documents.

Councilmember Ray said he agreed, and encouraged approval of the motion. Bill Baine asked the Council to remember the citizens like the Target, and he thought the Council would like to see the project work.

Mr. Schneider asked Mr. Cline about the proposed ordinance to enlarge the TIRZ.

Councilmember Wagamon said he had never seen who owned the property.

Councilmember Barrett had Mr. Schneider verify the Council would have to enact an ordinance to expand the TIRZ boundaries. Mr. Cline said it needed to include the entrances and exits of the improvement. The Mayor asked if the issue needed to be tabled until the ordinance was passed, and Councilmember Ray asked if approval obligated them. Mr. Schneider asked if this could be approved in May.

The Mayor moved to table the motion. Councilmember Zender seconded the motion. The motion was approved unanimously.

d. *Presentation, discussion and possible action on exploring possibilities concerning the extension of Interlocal Agreement (with Addendum) for Public Safety Services between the City and Walker County.* [Mayor Turner]

The Mayor said he hoped the County would have voted on his proposal for audit and allocation, but they had not yet acted, and, therefore, he would not make a motion during this meeting.

Councilmember Ray said he felt the proposal was mostly good, but that he felt it included subjective variables that could undermine concrete results.

e. *Discussion of signage on I-45.* [Councilmember Forbus]

Councilmember Forbus spoke of the need for better signage on I-45 and its feeder roads, in relation to the difficulty of the one-way feeder roads, and hoped to help local businesses with better direction. Councilmember Woodward asked about the availability of supplemental signage on the feeder roads. The Mayor acknowledged there was also difficulty for persons exiting the interstate.

f. *Presentation, discussion and possible action to discuss the employment contract of Theresa O'Brien, Municipal Court Prosecutor.* [Mayor Turner]

The Mayor said this was a personnel matter, and Mrs. O'Brien had requested a private hearing, so it would be handled later.

g. *City Manager's Report*

1. *Presentation concerning Brazos Valley Community Action Agency's Weatherization Program, given by Bryan Jones, Administrator of Housing & Weatherization.*

Dr. Sherry McKibben, Community Development Specialist, introduced Bryan Jones, who explained the grant and the history of the Brazos Valley Action Agency.

Mr. Jones asked the Council for help in informing the public about the grant. He said it was a free service to help lower utility bills, and could help owner-occupant or rental properties, and described the ways in which someone could qualify. He encouraged the Council to let people know about the project.

The Mayor asked for a phone number to call, Mr. Jones gave 979-822-4100 or 1-877-54-BVCAA, or check bvcaa.org. Councilmember Forbus said the public could also call City Hall and be referred.

10. PUBLIC COMMENT

There were no additional public comments.

11. MEDIA INQUIRIES

There were no media inquiries made.

12. ITEMS OF COMMUNITY INTEREST

(Hear announcements concerning items of community interest from the Mayor, Councilmembers, and City staff for which no action will be discussed or taken.)

The Mayor discussed the return of the deployed local Soldiers, possibly coming home in July. He said they were going to commission a commemorative coin for them, and that additional coins would be sold to the public for \$20 each, to raise money for a banquet for the Soldiers.

The Mayor reminded the public of the City's 175th birthday, and mentioned the financial institutions which had committed to the purchase of commemorative coins for that celebration.

The Mayor said that on May 11th there would be a media event to celebrate the Cultural District, and this year's Texas Tourism Week.

Councilmember Woodward reminded all that the Sam Houston Folk Festival would begin on April 30th, and the Airing of the Quilts was being held on Saturday, May 1st. The Mayor also mentioned the City Manager had mentioned the Spring Clean would be held the following weekend.

The Council sang "Happy Birthday" to City Secretary Lee Woodward.

Councilmember Woodward requested that the Council take care of agenda Items 17a and 17b, listed following the executive session; related to the appointment of Leonard Schneider of Liles Parker PLLC as City Attorney.

Councilmember Woodward made a motion to approve the contract of Liles Parker, and acknowledge Schneider as the City Attorney. Councilmember Forbus seconded the motion. Councilmember Ray asked if they could clarify that they were hiring Mr. Schneider, not the firm.

The motion passed unanimously.

Schneider asked, for procedural purposes, that the Council address ending the City's relationship with Ross, Banks, May, Cron & Cavin, P.C.

Councilmember Forbus made a motion to end the City's relationship with Ross, Banks, May, Cron & Cavin, P.C., and Councilmember Templeton seconded the motion.

The motion passed unanimously.

13. EXECUTIVE SESSION

- a. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.074 – personnel matters – to discuss the matter of Theresa O'Brien, addressed originally in Item 9f. [Leonard Schneider, City Attorney]

The Council entered into Executive Session at 8:50 p.m.

14. RECONVENE

- a. *Discussion and possible action on items discussed in Executive Session. [Mayor Turner]*

Mayor Turner made a motion to provide Theresa O'Brien with a \$1,200 lump sum and a \$200 monthly increase in her monthly \$3,000 salary, bringing her total monthly salary \$3,200. Councilmember Templeton seconded the motion.

The motion passed unanimously.

15. EXECUTIVE SESSION

- a. City Council will convene in closed session as authorized by Texas Government Code, Chapter 551, Section 551.071 – pursuant to section 551.071 of the Local Government Code to receive legal advice on the current litigation against the Chamber of Commerce and to receive legal advice on claim and demand letter by Wes Altom, including, but not limited to, Wes Altom's request for a public hearing. [Leonard Schneider, City Attorney]

Council re-convened into Executive Session at 8:52 p.m.

16. RECONVENE

- a. *Discussion and possible action on items discussed in Executive Session.* [Mayor Turner]

Council returned to Open Session at 10:10 p.m.

Mayor Turner made a motion to retain William S. Helfand of Chamberlain, Hrdlicka, White, Williams & Martinto Attorneys at Law to assist in the public hearing related to Wes Altom's employment, and Councilmember Ray seconded the motion.

The motion passed unanimously.

17. CHARTER OFFICER - CITY ATTORNEY

- a. *Discussion and possible action on the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee: City Attorney.* [Mayor Turner]

Addressed prior to Executive Session.

- b. *Discussion and possible action to appoint Leonard Schneider, of Liles Parker PLLC as City Attorney.* [Mayor Turner]

Addressed prior to Executive Session.

18. ADJOURNMENT

The meeting was adjourned at 10:12pm.

Lee Woodward, City Secretary

City Council Meeting Agenda Item

Item Title:	Date:	Agenda Item No.:
Banking and Investment Account Agreem...	5/4/2010	58
Requested By:	Dept./Div:	Dept. Approval:
Winston Duke	210	WD

Issue/Item Description:

The Cities investment and banking policies requires city council approval to submit applications for future banking and investment possibilities . The City has been presented investment possibilities from Wells Fargo and Insured Cash Shelter Account(ICSA). Authority is requested to complete the application for future use and approve signatory authority.

Background:

The City has diversity in investment companies that allows the finance department and the city manager to manage the city's investments and to ensure processes are established and ready when needed.

Facts to Consider:

- Adding these two accounts will allow greater diversity, if used.
- Wells Fargo Texas Managed Account is pledged by securities in the City's name.
- The Insured Cash Shelter (ICSA) is covered by FDIC insurance.
- Both accounts provide an improved rate of return than today's market compared to the pools.
- Funds are liquid on a daily basis.

Fiscal Impact/Funding Source(s):

An example, diversification of one-half of the pool funds would add \$14,000 to \$21,600.

Attachment(s):

- Wells Fargo Application
- Insured Cash Shelter Account

Recommendation(s):

- Approve the banking and investment applications with Wells Fargo and ICSA (Insured Cash Shelter Account and signature per attached.

MOTION: ☐

SECOND: ☐

VOTE:

PRESENTED

TABLED

APPROVED

☐ **DECLINED ACTION**

☐ OTHER

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

100

2000

April 19, 2010

Ms. Rachel D. Smith
Accountant
City of Huntsville



Ms. Smith,

Wells Fargo is pleased to announce an alternative to other investments you may currently be using.

Wells Fargo is pleased to recommend to you our Texas Managed Rate Account. We have secured a special rate for the benefit of the City of Huntsville on balances greater than \$1 million dollars. The rate can change weekly, but generally we try to keep them more stable. When considering the rate, we look at several key benchmarks, 3 month Libor, Fed Fund Rate, T-Bill, our internal Cost of Funds and what we would currently be paying-on our other published liquid accounts. Historically, we have found that 3 month Libor was the best benchmark.

The primary objective of this account is to maintain sufficient liquidity, protect principal, diversify your portfolio and increase yield.

The Features of this account include:

- An FDIC insured checking account
- Fully Collateralized per your requirements
- Additional Deposits allowed at any time
- Liquidity, you have access at any time to your funds
- No monthly service charges
- Interest credited monthly

Wells Fargo appreciates the opportunity to offer this account for the benefit of The City of Huntsville. We look forward to working with you. Thank You.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann Battaglia".

Ann Battaglia
Relationship Manager
Houston Government Banking

Texas Managed Rate

CHECKING		RATE TIER					
		3 - RH					
DATE	System	APY					
1/3/2009		1.00	1.00				
2/1/2009		0.80	0.80				
2/28/2009		0.80	0.80				
3/28/2009		0.80	0.80				
4/11/2009		0.70	0.70				
5/2/2009		0.55	0.55				
5/16/2009		0.40	0.40				
5/23/2009		0.40	0.40				
5/30/2009		0.40	0.40				
6/27/2009		0.40	0.40				
7/11/2009		0.30	0.30				
8/1/2009		0.30	0.30				
9/12/2009		0.25	0.25				
9/26/2009		0.25	0.25				
10/31/2009		0.25	0.25				
11/30/2009		0.25	0.25				
12/26/2009		0.25	0.25				
1/25/2010		0.28	0.28				
2/28/2010		0.34	0.34				



Wells Fargo Bank, N.A.
 GIB Public Funds Collateral Unit
 333 Market Street, 17th Floor
 MAC A0119-173
 San Francisco, CA 94105
PublicFundsCollateral@wellsfargo.com

RECEIVED

APR 26 2010

FINANCE

April 20, 2010

City of Huntsville
 1212 Avenue M
 Huntsville, TX 77340

Dear Wells Fargo Customer,

Wells Fargo Bank enjoys a reputation for strength and security. We are dedicated to ensuring that your public funds deposits are collateralized as required by conforming to all applicable state and federal statutory requirements. Our Public Funds Collateral Unit team will work hard to know you, listen to you and provide seamless collateralization of your public funds deposits.

The Public Funds Collateral Unit team will monitor your collected balances each day, pledge collateral to protect balances above FDIC coverage and provide you with a Pledge Report showing the securities pledged monthly. The Federal Deposit Insurance Corporation provides each public funds customer up to **\$250,000** deposit insurance in the aggregate for all time and savings deposits including NOW accounts, and **\$250,000** for all non-interest bearing transaction accounts. [*http://www.fdic.gov/deposit/deposits/insured/ownership8.html](http://www.fdic.gov/deposit/deposits/insured/ownership8.html) Wells Fargo collateralizes uninsured balances by pledging securities from its investment portfolio. This portfolio consists primarily of government agency securities. The market value of these securities is updated daily by an established third-party service that provides valuation services to many market participants.

Enclosed are **two (2) copies** of the Depository Pledge Agreement (collateral agreement) covering deposits held at Wells Fargo Bank, N.A. for **City of Huntsville**. In accordance with the applicable federal law (12 U.S.C. 1823), this collateral agreement must be approved by the bank's board of directors or loan committee; the approval must be reflected in the applicable meeting minutes; and the agreement must be an official record of the bank, continuously from the time of its execution. **Please sign two (2) copies of the Depository Pledge Agreement and return both originals to Public Funds Collateral Unit.** The Depository Pledge Agreement will be submitted to the Wells Fargo Bank N.A.'s Board of Directors/Loan Committee for approval. A fully signed and executed original of the agreement and corporate resolution will be mailed to you upon completion.

Also enclosed is the Federal Reserve Bank's Pledge Agreement. This form establishes a joint custody account for the collateral pledged to secure your deposits at the Federal Reserve Bank. **Please sign and have notarized the Federal Reserve Bank's Pledge Agreement and return to Public Funds Collateral Unit.**

- All shaded areas on document **MUST** be completed for processing
- Faxed copies are **NOT** accepted as Original Agreements

Upon receipt of the above signed documents, we will pledge collateral to protect your deposit balances above FDIC coverage.

We hope this information regarding the documents required for collateralization is clear. If you have additional questions, please contact me at (415) 371-3273. We look forward to serving you!

Sincerely,

Mercy Lopez, PFA Analyst
 Public Funds Collateral Unit

DEPOSITORY PLEDGE AGREEMENT

City of Huntsville ("Pledgee") has selected **WELLS FARGO BANK, NATIONAL ASSOCIATION** ("Pledgor") as a depository for certain of its funds and Pledgor has agreed to act as the depository for those funds in accordance with applicable laws, which require that Pledgor secure the deposited funds, to the extent not insured by the Federal Deposit Insurance Corporation ("FDIC"), by pledging book-entry securities ("Eligible Securities") of any type permitted by the provisions of the **Public Funds Collateral Act, Title 10, Chapter 2257 of the Texas Government Code**, as in effect from time to time (the "Governing Statutes"), which are eligible to be held in a Securities Account at a Federal Reserve Bank under Federal Reserve Bank Operating Circular 7. Pledgee and Pledgor have selected **THE FEDERAL RESERVE BANK OF SAN FRANCISCO** ("Custodian") to hold the pledged securities in custody and safekeeping pursuant to the terms of the Governing Statutes, Federal Reserve Bank Operating Circular 7 as in effect from time to time ("Circular 7"), and the Custody Agreement for Book-Entry Securities, Appendix "C" to Circular 7 (the "Custody Agreement"), the provisions of which are incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual promises and covenants in this Agreement, Pledgee and Pledgor agree as follows:

1. Grant of Security Interest; Instructions Regarding Collateral. Pledgor hereby grants to Pledgee a security interest in all Eligible Securities held by Custodian and reflected on Custodian's records as being pledged to Pledgee (the "Collateral"). Addendum "A" contains the names and specimen signatures of individuals authorized to act on behalf of Pledgee, and Addendum "B" contains the names and specimen signatures of individuals authorized to act on behalf of Pledgor. Either Pledgee or Pledgor may add or remove authorized representatives without the consent of the other at any time.

2. Amount of Collateral. The aggregate market value of Eligible Securities held by Custodian at all times during the term of this Agreement must be in an amount not less than **one hundred percent (100%)** of (a) the amount of Pledgee's collected funds on deposit with Pledgor, increased by (b) the amount of accrued but uncredited interest on such deposited funds, (c) reduced by that portion of the funds insured by the FDIC. Such amount is hereinafter called the "Required Collateral Value".

3. Substitutions and Withdrawals of Collateral. If the aggregate market value of Collateral held by Custodian at any time exceeds the Required Collateral Value, Pledgor may withdraw any excess Collateral by providing Custodian with a withdrawal notice signed by an authorized representative of both Pledgor and Pledgee. Pledgee agrees to promptly sign the withdrawal notice if the market value of the remaining Collateral equals or exceeds the Required Collateral Value. Additionally, Pledgor may substitute Eligible Securities for any of the Collateral held by Custodian at any time by providing Custodian with a substitution notice signed by an authorized representative of Pledgor alone, provided that the market value of the Collateral following such substitution would equal or exceed the Required Collateral Value. This paragraph constitutes Pledgee's written standing instructions, within the meaning of Section 4.3 of the Custody Agreement, to permit substitutions of like par value amounts of pledged Eligible Securities without the consent of Pledgee. Substitutions of securities not of like par value shall require Pledgee's written consent. To the extent that Pledgee's consent is required for any substitution of collateral securities, Pledgee shall upon Wells Fargo's request promptly furnish such consent in the form required by the Custodian, so long as the requested substitution will not reduce the value of pledged securities below the Required Collateral Value.

4. Pledgor's Obligations. Pledgor shall perform all of the duties and obligations required of a depository under applicable law with respect to collateralization of the funds of Pledgee on deposit with Pledgor, including the duties and obligations required under the Governing Statutes. At the expiration of the term of this Agreement, Pledgor shall turn over to any successor depository designated by Pledgee all funds held by Pledgor as depository. Pledgor will furnish to Pledgee a monthly statement listing a description of the Collateral. The statement will specify the par value, market value, and maturity date of each component of the Collateral. Upon request, Pledgor shall provide to Pledgee a copy of Pledgor's most recent publicly available quarterly or annual financial statement.

5. Custodian's Obligations. The duties and obligations of Custodian with respect to the Collateral shall be as set forth in the Custody Agreement.

6. Default and Remedies. If Pledgor fails to perform its obligations under Paragraph 4 above, or if Pledgor is declared insolvent, or if a receiver is appointed for Pledgor (each an "Event of Default"), Pledgee may instruct Custodian to dispose of the Collateral in accordance with the provisions of the Custody Agreement, but only

after Pledgee has provided Pledgor written notice of the Event of Default and at least three (3) business days after such notice to cure the Event of Default. If, after receipt of such notice, Pledgor fails to cure the Event of Default within the required period of time, Pledgee shall thereupon become authorized to certify in writing to Custodian that Pledgor is in default under this Agreement, and to instruct Custodian to dispose of an amount of Collateral sufficient to satisfy any indebtedness owed by Pledgor to Pledgee, in accordance with Pledgee's instructions.

7. Termination of Agreement. Any party to this Agreement may terminate this Agreement by giving thirty (30) days prior written notice of termination to the other parties.

8. Applicable Law; Other Agreements. This Agreement is governed by the laws of the **State of Texas**. All deposit accounts of Pledgee will be subject to Pledgor's Commercial Account Agreement, Business Account Agreement, or other applicable deposit account agreement, as in effect from time to time.

9. Miscellaneous. The headings in this agreement are for convenience of reference only and should not be used in interpreting this Agreement. If any provision of this agreement is illegal or unenforceable under applicable law, that provision should be deemed reformed so as to be enforceable to the extent permitted by applicable law, or if that is not possible, then this Agreement should be read as if that provision was never a part of it, and the remainder of the Agreement will be enforceable. THIS AGREEMENT REPRESENTS THE FINAL AGREEMENT OF THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO ORAL AGREEMENTS OF THE PARTIES. Notices given under this Agreement must be addressed as set forth below the signature of each party, and will be effective upon actual receipt by the addressee or upon refusal of delivery during the normal business hours of the addressee.

Date of Agreement: _____, 20____.

PLEDGEE: CITY OF HUNTSVILLE

**PLEDGOR: WELLS FARGO BANK,
NATIONAL ASSOCIATION**

By: _____

Name: _____

Title: _____

Address: _____

By: _____

Name: Sheila Lynch

Title: Vice President

333 Market St, 17th Floor
MAC A0119-173

Address: San Francisco, CA 94105

ADDENDUM "A"
(Authorized Officers of Pledgee)

One signature of any of the following authorized officers of Pledgee is required to authorize actions to be taken pursuant to the foregoing Depository Pledge Agreement:

1. Print
 Name: _____ Signature: _____
 Phone/
 Fax: _____ Email: _____

2. Print
 Name: _____ Signature: _____
 Phone/
 Fax: _____ Email: _____

3. Print
 Name: _____ Signature: _____
 Phone/
 Fax: _____ Email: _____

4. Print
 Name: _____ Signature: _____
 Phone/
 Fax: _____ Email: _____

INSURED CASH SHELTER ACCOUNT

! SECURITY • CONVENIENCE • LIQUIDITY • PEACE OF MIND

TF TRACS
Financial

As of February 25, 2010

www.tracsfinancial.com

objective

The Insured Cash Shelter Account ('ICSA') seeks to provide a competitive level of interest in a Federal Deposit Insurance Corporation ("FDIC") insured account with liquidity, safety and 24/7 account information. Deposits in the ICSA are federally insured and distributed among several 'well-capitalized' banks and savings institutions as defined by FDIC regulations. By spreading deposits among multiple institutions, ICSA is able to offer a higher level of FDIC insurance coverage compared to if you placed your deposit in a single banking institution.

the benefits of the ICSA

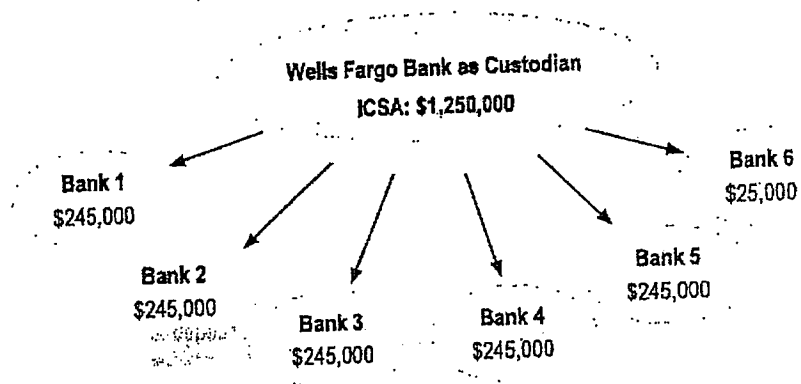
The ICSA provides access up to \$10 million¹ of FDIC coverage through one convenient account. Benefits include:

- Safety and security of FDIC insurance up to \$10 million¹ per tax ID
- No term limits/commitments
- Liquidity at par plus interest, without any early termination penalties or fees
- Convenience of a single statement online account view and automated trade confirms
- Deposits are placed by the program administrator only in 'well-capitalized' banks and saving institutions as defined by the FDIC
- Wells Fargo Bank as program custodian
- Competitive rates
- Ideal for fiduciaries required to invest solely in U.S. Government guaranteed or insured investments

how it works

- 1 Each individual investor maintains a single account.
- 2 Each investor allocation at each participating bank stays below the FDIC insurance limit.²
- 3 Any funds in excess of the FDIC insurance limit² are transferred to another participating bank/savings institution.
- 4 Interest will accrue from the date that funds are deposited with a participating bank, through the day before the day of withdrawal.

The ICSA allocates the distribution of funds to 'well capitalized', FDIC-insured banks throughout the U.S.



²Please note that the insurance applies to each separate account registration — so joint accounts with two individual owners may receive up to \$20 million total in the ICSA.

account details as of 02/28/10

Min. Initial Deposit	\$10,000
Min. Subsequent Deposit	\$5,000
Interest Frequency	Accrued daily
Current Rate	0.45% per annum ¹
FDIC Insurance Coverage	Up to \$10,000,000

performance as of 02/28/10

ICSA [REDACTED] 0.45%¹

6 Month U.S. Treasury Bill Rate (Source: Bloomberg)

[REDACTED] 0.20%

State and Local Government Pool Composite (Source: TRACS Financial)

[REDACTED] 0.15%

Prime Institutional Money Fund Index (Source: Crane Data)

[REDACTED] 0.07%

¹Rate and deposit caps are indicative for TRACS Financial and may change without notice due to changes in market or business conditions. Historical performance is no guarantee of future returns.

TRACS Financial : www.tracsfinancial.com

Personal Overview of the ICSA

FDIC Insured Money Market Demand Account Program

By Jeff Flynn

Overview

In the past year, as you read in my comments, 0% Fed rates have just about eliminated use of the traditional investments we have used for decades. Money market mutual fund yields are near zero, as are agency discos, CP, and CDs. As a result, almost all of the Public Sector's money now resides in either pools, or perhaps even checking accounts. We believe that the Fed, Treasury, and FDIC are all working together to drive trillions of dollars back to the banks so they can shore up their balance sheets for what we believe is yet another economic downturn and another drop in residential and commercial real estate. FDIC appears to be a growing Federal obligation coupled with Fannie and Freddie, and a part of the unfunded mandates such as Medicare and Social Security. That said, given that so much of your money does reside in pools, we felt it wise to tap this FDIC insured product area, and to diversify at least some amount of the portfolio.

CDARS

We spent at least a year researching the CDARS program and their rates were very competitive with agency discos and CP. We found the basic concept wise, spreading insured amounts out around the nation. Today, even the bank CD yields have fallen toward zero as the banks desire for CD type assets has declined amid tighter lending standards and reduced appetite for borrowing by consumers.

The primary stumbling block to CDARS was that in all but 5 states, the orders for CDARS were supposed to be what is called, "reciprocal" which means that a bank was supposed to place the trade and then receipt back in the positions in the various banks for your specific account. What happened so often was that brokers or advisors were allowing the trade to go direct to CDARS in what is called a "one way" trade. That apparent violation of most states investment policies was often dismissed by the overriding FDIC full faith guarantee.

Investment policies are our primary concern. Reciprocal trades relate directly to the use of CDs. Our ICSA program uses what are called Money Market Demand Accounts which is next day money that banks seek for their balance sheets and assets. Brokered deposits is the term used for the money that ICSA thru IDC places with banks in their network. But we believe that MMDA are not subject to the reciprocal rule for CDs in all states and that FDIC full faith means that ICSA conforms to all state investment policies.

Q: What is the worst thing that could happen with the ICSA program?

A: Probably that one of the banks you get with the mix ends up getting closed down by the FDIC some Friday night. 200 banks have been shut down in the last 2 years. But it would be some dramatic situation where a "well capitalized" bank went to shut down in a short period of time. In most cases, banks that are closed generally have another bank come in to assume deposits and liabilities. The FDIC stands as the last guarantor, and in that case, it could take some time to have the failed bank apply for their 250K coverage on liabilities. In the end, if you have 5MM invested in ICSA, you get 20+ bank names of coverage. It seems less likely that failure by well capitalized banks would occur, but it is

the downside. Same would go for CDARS where one of their CD issuing banks folded. But next day liquidity type money seems more secure than term CDs that can go out as far as 2-5 years.

Q: I wanted to know why CDARS, who has 3000 banks in their system wasn't already doing this MMDA business?

A: They are. They are doing it with large brokerage institutions like Schwab. The next day type money banks need generally commands a slightly higher rate. So if the MMDA pooled rate is .5%, and Schwab chooses to offer their sweep accounts a .15% yield competitive with current money funds, Schwab makes 35 beeps on their client sweep balances. Large dollar volume. It appears to us that ICSA decided to offer MMDA to individual accounts, taking advantage of that void.

Other Issues

The ICSA program uses US Bank as their operational side. Trades are placed thru their institutional desk. Wells Fargo then acts as custodian. Both names we like and knew that the banks thoroughly reviewed this program before signing on.

One small limitation might be that the maximum amount you can invest for now is 5MM and there is a short waiting list for that. As the program grows and more MMDA banks are added, the maximum amount will be 10MM. That is not a huge amount but does offer some diversity for many of our client's portfolios. The current rate of .45% is better than most pools and certainly higher than Gov or Prime money funds now at about .10%.

We liked the "next day" liquidity feature. An S&P report on CDARS just out last week stated that they viewed CDARS as an investment that has to be treated as longer than next day, and said that CDARS could in fact create a loss to principal if positions had to be liquidated early. There are no penalties for next day trades with ICSA.

One issue we addressed in Terms and Conditions was the potential for CD purchase within the IDC framework; the issue being the time it could take to resell those CD positions which could impair next day capabilities. Thus far no CDs have been used, it was language they build in at inception and CD use will be removed from Terms and Conditions shortly. IDC has stated in writing that they will not use CDs in the ICSA program.

Summary

You can place your own trades direct with US Bank. You can access your account balances and rates on line. The FDIC insurance assures conformity with investment policies. you use Fed wire for deposits and redemptions. Until the Fed start raising rates, and we have a shot at agency discount notes again, we just haven't got many ideas. The CDARS rates are very low, and we would not want to lock in any term CDs out to 6-12 months at .12%. So ICSA along with your same day pools and money funds seems like a good idea. We are opening accounts and the process seems to be going smoothly.

City Council Meeting Agenda Item

Item Title:

Resolution Approving Changes to Person...

Date:

5/4/2010

Agenda Item No.:

5c

Requested By:

Winston Duke

Dept./Div:

210

Dept. Approval:

WD

Issue/Item Description:

Resolution approving Pay for Exempt Employees during a Governor Declared State of Emergency.

Background:

Internal equity issues arise when non-exempt subordinate employees are compensated more than their exempt supervisors during declared state of emergencies in which exempt employees are required to work.

Facts to Consider:

- Additional compensation does not conflict with the FLSA salary basis of pay, and, therefore, does not compromise the exempt status;
- Performance of non-exempt work under occasional emergency conditions will not be cause for these employees to lose exempt status;
- Participation in declared disaster activation causes exempt employees to endure significant hardship;
- Activation for these events is above and beyond the normally-assigned duties;
- The benefit to the community from the knowledge and experience gained by exempt employees participating in these events far outweighs other concerns.
- The state of emergency must be declared in accordance with this plan.
- The duration of the governor declared state of emergency must exceed twelve (12) hours.
- Compensation will be at the straight time hourly rate; the employee shall verify the hours worked on an approved form provided by the city.

Fiscal Impact/Funding Source(s):**Attachment(s):**

- Certificate for Resolution
- Attachment "A" -Policy for Pay for Exempt Employees during a governor declared state of emergency.

Recommendation(s):

- Approve Resolution

MOTION: ☐

SECOND: ☐

VOTE:

☐ PRESENTED

☐ APPROVED

☐ DECLINED ACTION

☐ TABLED

☐ OTHER

RESOLUTION NO. 2010-26

A RESOLUTION OF THE CITY OF THE CITY OF HUNTSVILLE , TEXAS AUTHORIZING EXEMPT EMPLOYEES TO BE COMPENSATED FOR ALL HOURS WORKED DURING A GOVERNOR DECLARED STATE OF EMERGENCY

WHEREAS, certain employees of the City of Huntsville are classified as exempt and under City of Huntsville employees personnel policies generally are not eligible for additional pay for hours worked in excess of a 40 hour work week;

WHEREAS, the City of the City of Huntsville desires to compensate exempt employees for the time when those employees are working in an approved overtime capacity to support a disaster during a governor declared state of emergency;

NOW, THEREFORE, be it resolved by the City Council of the City of Huntsville, Texas, that:

Section 1. That the City of Huntsville exempt employees shall be eligible for pay for all hours worked during a governor declared state of emergency as outlined in Attachment A to this Resolution.

Section 2. That the meeting at which this Resolution was passed was conducted in strict compliance with the Texas Open Meetings Act (Texas Government Code Chapter 551).

Section 3. That all other prior resolutions or portions of resolution of the City of Huntsville in conflict with the terms and provisions of this resolution are hereby repealed to the extent of such conflict only.

Section 4. That the repeal of any resolution or portion of a resolution by this resolution shall not affect the validity of any pending enforcement action or fees outstanding and due and payable for services rendered on or before the effective date of this resolution.

Section 5. That this resolution shall be effective retroactive beginning the 4th day of May, 2010.

PASSED AND APPROVED this 4th day of May, 2010.

J. Turner, Mayor
THE CITY OF HUNTSVILLE

ATTEST:

Lee Woodward, City Secretary

APPROVED AS TO FORM:

Leonard Schneider, City Attorney

ATTACHMENT A TO RESOLUTION NO. 2010-26

PAY FOR EXEMPT EMPLOYEES DURING A GOVERNOR DECLARED STATE OF EMERGENCY

While the FLSA does not require the payment of overtime to employees in exempt positions, and the City will not generally compensate those employees for overtime, there are rare circumstances under which certain employees in exempt positions may be granted special overtime pay under the following terms:

The City will provide additional compensation to exempt employees working in support of a disaster during a governor declared state of emergency, under the guidelines provided below. These guidelines are consistent with State and Federal Regulations. These guidelines recognize that it is the public interest that high-ranking staff from the City will participate in activations in response to emergencies. These guidelines also recognize that:

- The exempt status of these employees under the Fair Labor Standards Act (FLSA) is not compromised by additions to compensation from these sporadic and infrequent events. (The thrust of FLSA addresses the loss of exempt status when a salaried employee is subject to deductions from salary, not additions to salary.)
- Additional compensation does not conflict with the FLSA salary basis of pay, and, therefore, does not compromise the exempt status.
- Performance of non-exempt work under occasional emergency conditions will not be cause for these employees to lose exempt status.
- Participation in declared disaster activation under this Plan causes exempt employees to endure significant hardship.
- Internal equity issues arise when non-exempt subordinate employees are compensated more than their exempt supervisors during these infrequent events.
- Activation for these events is above and beyond the normally-assigned duties. This policy does not apply to City Charter Officers, directors, an or contract employees.
- The benefit to the community from the knowledge and experience gained by exempt employees participating in these events far outweighs other concerns.

Guidelines for payment of additional compensation to exempt employees during a governor declared state of emergency:

- The state of emergency must be declared in accordance with this plan.
- The duration of the governor declared state of emergency must exceed twelve (12) hours.
- The exempt employee must be activated as staff for the Emergency Operations Center, a Department Operations Center, an Incident Management Team, an Incident Command Post, a Liaison Officer at another agency, or as a field worker in direct support of the incident.
- Compensation at straight time hourly rate will be paid for hours activated during normally scheduled hours of work as well as for all time engaged in support of the governor declared state of emergency outside the normal work schedule of that employee.
- The employee shall verify the hours worked on an approved form by the City.

City Council Meeting Agenda Item

Item Title:	Date:	Agenda Item No.:
Approve Changes to FY 09-10 Fee Schedule		5D
Requested By:	Dept./Div:	Dept. Approval:
Winston Duke	210	WD

Issue/Item Description:

Approve changes to FY 09-10 Fee Schedule by adding new Park Rental Fees.

Background:

The City of Huntsville adopted the FY 09-10 Fee Schedule on September 15, 2009. City Council agreed on April 20, 2010 to establish a Park Rental Policy, thus creating the need for the fees to be added to the FY 09-10 Fee Schedule.

Facts to Consider:

- City Council approved on 04/20/10 to establish a Park Rental Policy.

Fiscal Impact/Funding Source(s):

Attachment(s):

- FY 09-10 Fee Schedule Page 5; Recreation Services

Recommendation(s):

- Authorize changes to the FY 09-10 Fee Schedule to add Park Rental Fees

MOTION: ☐

SECOND: ☐

VOTE:

☐ PRESENTED

☐ APPROVED

☐ DECLINED ACTION

☐ TABLED

☐ OTHER

ORDINANCE NO. 2010-32

AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING THE FISCAL YEAR 2009 – 2010 ANNUAL BUDGET, ORDINANCE NO. 2009-53 TO AMEND ADOPTED EXPENDITURES AND REVENUES OF THE BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the 2009 - 2010 Annual Budget was adopted by Ordinance 2009-53 on September 15, 2009;

WHEREAS, various unforeseen circumstances affecting the City have presented themselves during the course of the fiscal year;

WHEREAS, the City Council considered the circumstances independently, deliberating appropriately on the associated revenues and expenditures and the overall impact on the general financial status of the City;

WHEREAS, pursuant to the laws of the State of Texas and the City Charter of the City of Huntsville, Texas, the City Council has determined that it will be beneficial and advantageous to the citizens of the City of Huntsville to amend the 2009 – 2010 budget as set forth herein; and

WHEREAS, this ordinance combines the independent Council actions into one budget amendment document;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, that:

Section 1. The findings set forth above are incorporated into the body of this ordinance.

Section 2. The annual budget for fiscal year 2009 – 2010 is hereby amended to include the fee schedule described in Exhibit “B” attached hereto and made a part of this ordinance as if set out verbatim herein.

Section 3. All ordinances of the City in conflict with the provisions of this ordinance are hereby repealed, and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4. Should any section, portion, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the force or effect of any other section or portion of this ordinance.

Section 5. The necessity for amending the budget for the fiscal year, as required by the laws of the State of Texas, requires that this ordinance shall take effect immediately from and after its passage, as the law in such cases provides.

Section 6. This ordinance shall take effect immediately after its passage.

PASSED AND APPROVED on this the 4th day of May 2010.

THE CITY OF HUNTSVILLE, TEXAS

J. Turner, Mayor

ATTEST:

Lee Woodward, City Secretary

APPROVED AS TO FORM:

Leonard Schneider, City Attorney

City of Huntsville

Schedule of Fees and Charges

Fiscal Year 2009-2010

Recreation Services



Softball/Baseball Field		Advisory Board Review
Youth Leagues	\$5 per person	
Adult Leagues	\$10 per person	
Day Rental, Private Use	\$20	
Night Rental, Private Use	\$35	
Soccer Field		Advisory Board Review
Youth Leagues	\$5 per person	
Adult Leagues	\$10 per person	
Day Rental, Private Use	\$20	
Night Rental, Private Use	\$35	
Martin Luther King, Jr Center		Advisory Board Review
Rental Fee	\$150 per day	
Security Deposit	\$100	

Park Rental		Advisory Board Review
Park Permit	\$150	
Deposit	\$100	
Cancellation (6-15 Business Days Prior)	1/2 of Deposit returned	
Cancellation (Within 5 Business Days)	No Deposit returned	



Aquatic Center

Admission		Advisory Board Review
Adults Age 12 and Up	\$2	
Children Age 6 to 11	\$1.50--	
Children Age 5 or less	No Charge	
Season Pass		Advisory Board Review
Adults Age 12 and Up	\$40	
Children Age 6 to 11	\$30	
Family	\$100 for first four members + \$20 per each additional member	
Swimming Lessons	\$35 per course	Advisory Board Review
Water Aerobics	\$35 per session	Advisory Board Review
Pool Rental- Private	\$75 per hour (maximum 2 hours)	Advisory Board Review
Program Fees	Varies	Partial Cost Recovery

Cemetery Operations



Cemetery Space		Ordinance
Plot	\$750 per plot	
Filing Fee	Actual Cost	
Landscape Repair Fee after Exhumations	\$250	

City Council Meeting Agenda Item

Item Title:

Routine Airport Maintenance

Date:

5/4/2010

Agenda Item No.:

SE

Requested By:

Sherry McKibben

Dept./Div:

113

Dept. Approval:

BB

Issue/Item Description:

Routine Airport Maintenance grant is given to help defray the costs of repairs that occur on a yearly basis. We can request up to \$50,000 each year.

Background:

The maintenance at the airport is budgeted at \$6,000. After a phone call to TxDOT Aviation, they want to contract with the City for \$10,000. This will cover costs for new lighting and asphalt repairs.

Facts to Consider:

- Grant is for \$10,000
- 50% or \$5,000

Fiscal Impact/Funding Source(s):

The match will be derived from current funds and reimbursements from Entergy.

Attachment(s):

- Contract

Recommendation(s):

- Authorize the City Manager to accept and implement the TxDOT Aviation Routine Airport Maintenance Grant.

MOTION: ☐

SECOND: ☐

VOTE:

☐ **PRESENTED**

☐ **APPROVED**

☐ **DECLINED ACTION**

☐ **TABLED**

☐ **OTHER**

**TEXAS DEPARTMENT OF TRANSPORTATION
GRANT FOR ROUTINE AIRPORT MAINTENANCE PROGRAM**

(State Assisted Airport Routine Maintenance)

TxDOT Project No.: AM 2010HUNTS
TxDOT CSJ No.: M017HUNTS

Part I - Identification of the Project

TO: The City of Huntsville, Texas

FROM: The State of Texas, acting through the Texas Department of Transportation

This Grant is made between the Texas Department of Transportation, (hereinafter referred to as the "State"), on behalf of the State of Texas, and the City of Huntsville, Texas, (hereinafter referred to as the "Sponsor").

This Grant Agreement is entered into between the State and Sponsor shown above, under the authority granted and in compliance with the provisions of the Transportation Code, Chapter 21.

The project is for airport maintenance at the Huntsville Municipal Airport.

Part II - Offer of Financial Assistance

1. For the purposes of this Grant, the annual routine maintenance project cost, Amount A, is estimated as found on Attachment A, Scope of Services, attached hereto and made a part of this grant agreement.

State financial assistance granted will be used solely and exclusively for airport maintenance and other incidental items as approved by the State. Actual work to be performed under this agreement is found on Attachment A, Scope of Services. State financial assistance, Amount B, will be for fifty percent (50%) of the eligible project costs for this project or \$50,000.00, which ever is less, per fiscal year and subject to availability of state appropriations.

The Sponsor may request the State to provide mowing services, services to be provided at the discretion of the State. However, mowing services will not be eligible for state financial assistance. Sponsor will be responsible for 100% of costs of any mowing services.

Scope of Services, Attachment A, of this Grant, may be amended, subject to availability of state funds, to include additional approved airport maintenance work. Scope amendments require submittal of an Amended Scope of Services, Attachment A.

Services will not be accomplished by the State until receipt of Sponsor's share of project costs.

Only work items as described in Attachment A, Scope of Services of this Grant are reimbursable under this grant.

Work shall be accomplished by August 31, 2010, unless otherwise approved by the State.

2. The State shall determine fair and eligible project costs for work scope. Sponsor's share of estimated project costs, Amount C, shall be as found on Attachment A and any amendments.

It is mutually understood and agreed that if, during the term of this agreement, the State determines that there is an overrun in the estimated annual routine maintenance costs, the State may increase the grant to cover the amount of the overrun within the above stated percentages and subject to the maximum amount of state funding.

The State will not authorize expenditures in excess of the dollar amounts identified in this Agreement and any amendments, without the consent of the Sponsor.

3. Sponsor, by accepting this Grant certifies and, upon request, shall furnish proof to the State that it has sufficient funds to meet its share of the costs. The Sponsor grants to the State the right to audit any books and records of the Sponsor to verify expended funds.

Upon execution of this Agreement and written demand by the State, the Sponsor's financial obligation (Amount C) shall be due in cash and payable in full to the State. State may request the Sponsor's financial obligation in partial payments. Should the Sponsor fail to pay their obligation, either in whole or in part, within 30 days of written demand, the State may exercise its rights under Paragraph V-3. Likewise, should the State be unwilling or unable to pay its obligation in a timely manner, the failure to pay shall be considered a breach and the Sponsor may exercise any rights and remedies it has at law or equity.

The State shall reimburse or credit the Sponsor, at the financial closure of the project, any excess funds provided by the Sponsor which exceed Sponsor's share (Amount C).

4. The Sponsor specifically agrees that it shall pay any project costs which exceed the amount of financial participation agreed to by the State. It is further agreed that the Sponsor will reimburse the State for any payment or payments made by the State which are in excess of the percentage of financial assistance (Amount B) as stated in Paragraph II-1.

5. Scope of Services may be accomplished by State contracts or through local contracts of the Sponsor as determined appropriate by the State. All locally contracted work must be approved by the State for scope and reasonable cost. Reimbursement requests for locally contracted work shall be submitted on forms provided by the State and shall include copies of the invoices for materials or services. Payment shall be made for no more than 50% of allowable charges.

The State will not participate in funding for force account work conducted by the Sponsor.

6. This Grant shall terminate upon completion of the scope of services.

Part III - Sponsor Responsibilities

1. In accepting this Grant, if applicable, the Sponsor guarantees that:
 - a. it will, in the operation of the facility, comply with all applicable state and federal laws, rules, regulations, procedures, covenants and assurances required by the State in connection with this Grant; and
 - b. the Airport or navigational facility which is the subject of this Grant shall be controlled by the Sponsor for a period of at least 20 years; and
 - c. consistent with safety and security requirements, it shall make the airport or air navigational facility available to all types, kinds and classes of aeronautical use without discrimination between such types, kinds and classes and shall provide adequate public access during the period of this Grant; and
 - d. it shall not grant or permit anyone to exercise an exclusive right for the conduct of aeronautical activity on or about an airport landing area. Aeronautical activities include, but are not limited to scheduled airline flights, charter flights, flight instruction, aircraft sales, rental and repair, sale of aviation petroleum products and aerial applications. The landing area consists of runways or landing strips, taxiways, parking aprons, roads, airport lighting and navigational aids; and
 - e. it shall not enter into any agreement nor permit any aircraft to gain direct ground access to the sponsor's airport from private property adjacent to or in the immediate area of the airport. Further, Sponsor shall not allow aircraft direct ground access to private property. Sponsor shall be subject to this prohibition, commonly known as a "through-the-fence operation," unless an exception is granted in writing by the State due to extreme circumstances; and
 - f. it shall not permit non-aeronautical use of airport facilities without prior approval of the State; and
 - g. the Sponsor shall submit to the State annual statements of airport revenues and

expenses when requested; and

- h. all fees collected for the use of the airport shall be reasonable and nondiscriminatory. The proceeds from such fees shall be used solely for the development, operation and maintenance of the airport or navigational facility; and
 - i. an Airport Fund shall be established by resolution, order or ordinance in the treasury of the Sponsor, or evidence of the prior creation of an existing airport fund or a properly executed copy of the resolution, order, or ordinance creating such a fund, shall be submitted to the State. The fund may be an account as part of another fund, but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole. All fees, charges, rents, and money from any source derived from airport operations must be deposited in the Airport Fund and shall not be diverted to the general revenue fund or any other revenue fund of the Sponsor. All expenditures from the Airport Fund shall be solely for airport purposes. Sponsor shall be ineligible for a subsequent grant or loan by the State unless, prior to such subsequent approval of a grant or loan, Sponsor has complied with the requirements of this subparagraph; and
 - j. the Sponsor shall operate runway lighting at least at low intensity from sunset to sunrise; and
 - k. insofar as it is reasonable and within its power, Sponsor shall adopt and enforce zoning regulations to restrict the height of structures and use of land adjacent to or in the immediate vicinity of the airport to heights and activities compatible with normal airport operations as provided in Tex. Loc. Govt. Code Ann. Sections 241.001 et seq. (Vernon and Vernon Supp.). Sponsor shall also acquire and retain aviation easements or other property interests in or rights to use of land or airspace, unless sponsor can show that acquisition and retention of such interest will be impractical or will result in undue hardship to Sponsor. Sponsor shall be ineligible for a subsequent grant or loan by the State unless Sponsor has, prior to subsequent approval of a grant or loan, adopted and passed an airport hazard zoning ordinance or order approved by the State.
2. The Sponsor, to the extent of its legal authority to do so, shall save harmless the State, the State's agents, employees or contractors from all claims and liability due to activities of the Sponsor, the Sponsor's agents or employees performed under this agreement. The Sponsor, to the extent of its legal authority to do so, shall also save harmless the State, the State's agents, employees or contractors from any and all expenses, including attorney fees which might be incurred by the State in litigation or otherwise resisting claim or liabilities which might be imposed on the State as the result of those activities by the Sponsor, the Sponsor's agents or employees.

3. The Sponsor's acceptance of this Offer and ratification and adoption of this Grant shall be evidenced by execution of this Grant by the Sponsor. The Grant shall comprise a contract, constituting the obligations and rights of the State of Texas and the Sponsor with respect to the accomplishment of the project and the operation and maintenance of the airport.

If it becomes unreasonable or impractical to complete the project, the State may void this agreement and release the Sponsor from any further obligation of project costs.

4. Upon entering into this Grant, Sponsor agrees to name an individual, as the Sponsor's Authorized Representative, who shall be the State's contact with regard to this project. The Representative shall receive all correspondence and documents associated with this grant and shall make or shall acquire approvals and disapprovals for this grant as required on behalf of the Sponsor, and coordinate schedule for work items as required.
5. By the acceptance of grant funds for the maintenance of eligible airport buildings, the Sponsor certifies that the buildings are owned by the Sponsor. The buildings may be leased but if the lease agreement specifies that the lessee is responsible for the upkeep and repairs of the building no state funds shall be used for that purpose.
6. Sponsor shall request reimbursement of eligible project costs on forms provided by the State. All reimbursement requests are required to include a copy of the invoices for the materials or services. The reimbursement request will be submitted no more than once a month.
7. The Sponsor's acceptance of this Agreement shall comprise a Grant Agreement, as provided by the Transportation Code, Chapter 21, constituting the contractual obligations and rights of the State of Texas and the Sponsor with respect to the accomplishment of the airport maintenance and compliance with the assurances and conditions as provided. Such Grant Agreement shall become effective upon the State's written Notice to Proceed issued following execution of this agreement.

PART IV - Nomination of the Agent

1. The Sponsor designates the State as the party to receive and disburse all funds used, or to be used, in payment of the costs of the project, or in reimbursement to either of the parties for costs incurred.
2. The State shall, for all purposes in connection with the project identified above, be the Agent of the Sponsor. The Sponsor grants the State a power of attorney to act as its agent to perform the following services:
 - a. accept, receive, and deposit with the State any and all project funds granted, allowed, and paid or made available by the Sponsor, the State of Texas, or any other entity;
 - b. enter into contracts as necessary for execution of scope of services;
 - c. if State enters into a contract as Agent: exercise supervision and direction of the project work as the State reasonably finds appropriate. Where there is an irreconcilable conflict or difference of opinion, judgment, order or direction between the State and the Sponsor or any service provider, the State shall issue a written order which shall prevail and be controlling;
 - d. receive, review, approve and pay invoices and payment requests for services and materials supplied in accordance with the State approved contracts;
 - e. obtain an audit as may be required by state regulations; the State Auditor may conduct an audit or investigation of any entity receiving funds from TxDOT directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
 - f. reimburse sponsor for approved contract maintenance costs no more than once a month.

PART V - Recitals

1. This Grant is executed for the sole benefit of the contracting parties and is not intended or executed for the direct or incidental benefit of any third party.

2. It is the intent of this grant to not supplant local funds normally utilized for airport maintenance, and that any state financial assistance offered under this grant be in addition to those local funds normally dedicated for airport maintenance.
3. This Grant is subject to the applicable provisions of the Transportation Code, Chapters 21 and 22, and the Airport Zoning Act, Tex. Loc. Govt. Code Ann. Sections 241.001 et seq. (Vernon and Vernon Supp.). Failure to comply with the terms of this Grant or with the rules and statutes shall be considered a breach of this contract and will allow the State to pursue the remedies for breach as stated below.
 - a. Of primary importance to the State is compliance with the terms and conditions of this Grant. If, however, after all reasonable attempts to require compliance have failed, the State finds that the Sponsor is unwilling and/or unable to comply with any of the terms of this Grant, the State, may pursue any of the following remedies: (1) require a refund of any financial assistance money expended pursuant to this Grant, (2) deny Sponsor's future requests for aid, (3) request the Attorney General to bring suit seeking reimbursement of any financial assistance money expended on the project pursuant to this Grant, provided however, these remedies shall not limit the State's authority to enforce its rules, regulations or orders as otherwise provided by law, (4) declare this Grant null and void, or (5) any other remedy available at law or in equity.
 - b. Venue for resolution by a court of competent jurisdiction of any dispute arising under the terms of this Grant, or for enforcement of any of the provisions of this Grant, is specifically set by Grant of the parties in Travis County, Texas.
4. The State reserves the right to amend or withdraw this Grant at any time prior to acceptance by the Sponsor. The acceptance period cannot be greater than 30 days after issuance unless extended by the State.
5. This Grant constitutes the full and total understanding of the parties concerning their rights and responsibilities in regard to this project and shall not be modified, amended, rescinded or revoked unless such modification, amendment, rescission or revocation is agreed to by both parties in writing and executed by both parties.
6. All commitments by the Sponsor and the State are subject to constitutional and statutory limitations and restrictions binding upon the Sponsor and the State (including Sections 5 and 7 of Article 11 of the Texas Constitution, if applicable) and to the availability of funds which lawfully may be applied.

Part VI - Acceptances**Sponsor**

The City of Huntsville, Texas, does ratify and adopt all statements, representations, warranties, covenants, agreements, and all terms and conditions of this Grant.

Executed this _____ day of _____, 20__.

City of Huntsville, Texas

Sponsor

Witness Signature

Sponsor Signature

Witness Title

Sponsor Title

Certificate of Attorney

I, _____, acting as attorney for _____, Texas, do certify that I have fully examined the Grant and the proceedings taken by the Sponsor relating to the acceptance of the Grant, and find that the manner of acceptance and execution of the Grant by the Sponsor, is in accordance with the laws of the State of Texas.

Dated at _____, Texas, this _____ day of _____, 20__.

Witness Signature

Attorney's Signature

Witness Title

Acceptance of the State

Executed by and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs and grants heretofore approved and authorized by the Texas Transportation Commission.

STATE OF TEXAS
TEXAS DEPARTMENT OF TRANSPORTATION

By: _____

Date: _____

**Attachment A
Scope of Services**

TxDOT CSJ No.:M017HUNTS

Eligible Scope Items:	Estimated Costs	State Share	Sponsor Share
	Amount A	Amount B	Amount C
PAVEMENTS	\$5,000.00	\$2,500.00	\$2,500.00
GENERAL MAINTENANCE	\$0.00	\$0.00	\$0.00
PAVEMENT MARKINGS	\$0.00	\$0.00	\$0.00
GRADING/DRAINAGE	\$0.00	\$0.00	\$0.00
MISCELLANEOUS	\$5,000.00	\$2,500.00	\$2,500.00
Total	\$10,000.00	\$5,000.00	\$5,000.00

Accepted by: City of Huntsville, Texas

Signature

Title: _____

Date: _____

Notes: (explanations of any specifications or variances as needed for above scope items)_____

PAVEMENTS – Sponsor to contract for paving repairs.

MISCELLANEOUS – Sponsor to contract for airfield lighting and terminal building repairs/maintenance/improvements. Other projects to be determined and added by amendment.

Only work items as described in Attachment A, Scope of Services of this Grant are reimbursable under this grant.

CERTIFICATION OF AIRPORT FUND

TxDOT CSJ No.: M017HUNTS

The City of Huntsville does certify that an Airport Fund has been established for the Sponsor, and that all fees, charges, rents, and money from any source derived from airport operations will be deposited for the benefit of the Airport Fund and will not be diverted for other general revenue fund expenditures or any other special fund of the Sponsor and that all expenditures from the Fund will be solely for airport purposes. The fund may be an account as part of another fund, but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole.

City of Huntsville, Texas
(Sponsor)

By: _____

Title: _____

Date: _____

Certification of OMB Circular A-133 Single Audit Requirements

I, _____, do certify that the City of Huntsville will comply with
(Designated Representative)
all requirements of the A-133 Single Audit Act if the City of Huntsville spends more than \$500,000 in any federal funding sources during this fiscal year. And in following those requirements the City of Huntsville will submit the report to the audit division of the Texas Department of Transportation. If your entity did not meet the threshold of \$500,000.00 in expenditures, please submit a letter indicating that your entity is not required to have an audit performed for FY 2010.

Signature

Title

Date

DESIGNATION OF SPONSOR'S AUTHORIZED REPRESENTATIVE

TxDOT CSJ Number: M017HUNTS

The City of Huntsville designates, _____
(Name, Title)

as the Sponsor's authorized representative, who shall receive all correspondence and documents associated with this grant and who shall make or shall acquire approvals and disapprovals for this grant as required on behalf of the Sponsor.

City of Huntsville, Texas
(Sponsor)

By: _____

Title: _____

Date: _____

DESIGNATED REPRESENTATIVE

Mailing Address: _____

Overnight Mailing Address: _____

Telephone/Fax Number: _____

Email address (if available): _____

ORDINANCE NO. 2010-34

AN ORDINANCE OF THE CITY OF HUNTSVILLE, TEXAS, AMENDING THE FISCAL YEAR 2009 – 2010 ANNUAL BUDGET, ORDINANCE NO. 2009-53 TO AMEND ADOPTED EXPENDITURES AND REVENUES OF THE BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the 2009 - 2010 Annual Budget was adopted by Ordinance 2009-53 on September 15, 2009;

WHEREAS, various unforeseen circumstances affecting the City have presented themselves during the course of the fiscal year;

WHEREAS, the City Council considered the circumstances independently, deliberating appropriately on the associated revenues and expenditures and the overall impact on the general financial status of the City;

WHEREAS, pursuant to the laws of the State of Texas and the City Charter of the City of Huntsville, Texas, the City Council has determined that it will be beneficial and advantageous to the citizens of the City of Huntsville to amend the 2009 – 2010 budget as set forth herein; and

WHEREAS, this ordinance combines the independent Council actions into one budget amendment document;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, that:

Section 1. The findings set forth above are incorporated into the body of this ordinance.

Section 2. The annual budget for fiscal year 2009 – 2010 is hereby amended to include the expenditures and revenues described in Exhibit "A" attached hereto and made a part of this ordinance as if set out verbatim herein.

Section 3. All ordinances of the City in conflict with the provisions of this ordinance are hereby repealed, and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

Section 4. Should any section, portion, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the force or effect of any other section or portion of this ordinance.

Section 5. The necessity for amending the budget for the fiscal year, as required by the laws of the State of Texas, requires that this ordinance shall take effect immediately from and after its passage, as the law in such cases provides.

Section 6. This ordinance shall take effect immediately after its passage.

PASSED AND APPROVED on this the 4th day of May, 2010.

THE CITY OF HUNTSVILLE, TEXAS

J. Turner, Mayor

ATTEST:

Lee Woodward, City Secretary

APPROVED AS TO FORM:

Leonard Schneider, City Attorney

Budget Amendments FY 09-10

Budget amendment to move funds from Planning and Development Admin full-time salaries account to purchased services/contracts account. Amendment is needed to cover costs of contract Interim City Engineer.

TO				
Fund	Project/Division	Div/Acct	Acct Title	Amount
(101) General	Planning & Development Admin	700-55070	Purchased Services/Contracts	\$ 10,000
FROM				
Fund	Project/Division	Div/Acct	Acct Title	Amount
(101) General	Planning & Development Admin	700-51111	Salaries - Full Time	\$ (10,000)

Budget amendment to increase Airport SRF improvements accounts for purchase/construction of airport signage. Funds are available from \$15,250 donation received for signage and building improvements.

TO				
Fund	Project/Division	Div/Acct	Acct Title	Amount
(609) Airport SRF	Airport SRF	399-68020	Improvements	\$ 15,250

Budget amendment to increase Police Foreiture account for reimbursement of seized money. Funds were seized in a 2002 case that was settled and Judge ordered funds be reimbursed to the defendant (the owner of the property).

TO				
Fund	Project/Division	Div/Acct	Acct Title	Amount
(611) Police Seizure & Forfeiture SRF	Police Forfeiture SRF	554-56040	Other	\$ 2,176

Budget amendment to increase Fire division overtime account. Firefighter Greg Mathis was called to deploy to Haiti and his hours were reimbursed to the City by Texas Engineering Extension (TEEX).

TO				
Fund	Project/Division	Div/Acct	Acct Title	Amount
(101) General	Fire	552-51130	Overtime	\$ 4,502

Budget Amendments FY 09-10

Final expenditures on Service Center safety project. Budget amendment to close out project.				
TO				
Fund	Project/Division	Div/Acct	Acct Title	Amount
(815) General CIP	Service Center Safety/Security	81537-62300	Construction	\$ 246
FROM				
Fund	Project/Division	Div/Acct	Acct Title	Amount
(815) General CIP	Unallocated General CIP	999-99999	Unallocated	\$ (246)

Robinson WWTP pump replacement project is complete. Budget amendment to move remaining budget to unallocated.				
TO				
Fund	Project/Division	Div/Acct	Acct Title	Amount
(702) Wastewater CIP	Unallocated	999-99999	Unallocated	\$ 1,813
FROM				
Fund	Project/Division	Div/Acct	Acct Title	Amount
(702) Wastewater CIP	Robinson WWTP Pump Replcm	7132-62300	Construction	\$ (1,813)

ORDINANCE NO. 2010-33

AN ORDINANCE APPROVING THE TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF HUNTSVILLE, TEXAS, AMENDED PROJECT PLAN AND REVISIONS TO THE REINVESTMENT ZONE FINANCING PLAN; AND CONTAINING FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECT.

WHEREAS, pursuant to Chapter 311 of the Texas Tax Code, the City designated a contiguous geographic area within the City as Tax Increment Reinvestment Zone Number One; and

WHEREAS, the City prepared and adopted a Reinvestment Zone Financing Plan, and Project Plan on November 9, 2004, and amended same on December 13, 2005 and April 24, 2007; and

WHEREAS, the City on January 20, 2009 approved Ordinance 2009-15 amending the Project Plan and revising the area of the TIRZ from approximately 805 acres to 68.3976 acres, the area of the proposed Ravenwood Village development; and

WHEREAS, the City Council desires to amend the Project Plan and revise the Reinvestment Zone Financing Plan for Tax Increment Reinvestment Zone Number One -Huntsville, Texas;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS:

Section 1. In anticipation of Council's desired amendments and revisions, City Staff has prepared or caused to be prepared a Project Plan and a Reinvestment Zone Financing Plan for the Zone as described in Section 311.011, Texas Tax Code, and is submitting amendments and revisions to the plans to the City Council for its approval. The City hereby approves the amended Project Plan (attached as Exhibit "A") and the revisions to the Reinvestment Zone Financing Plan (attached as Exhibit "B") for the Tax Increment Reinvestment Zone Number One -Huntsville, Texas.

Section 2. The Designation of the reinvestment zone established in the Ordinance creating Tax Increment Reinvestment Zone Number One is hereby redesignated as the area described in Exhibit "C" attached hereto.

Section 3. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or regulations connected herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

Section 4. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was

adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the Time required by law preceding its meeting, as required by the Open Meetings Law, Texas Government Code, Ch. 551, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

First Reading before City Council on May 4th, 2010.

Second Reading on May 18th, 2010

PASSED AND APPROVED THIS 18th day of May, 2010.

CITY OF HUNTSVILLE, TEXAS

J. Turner, Mayor

ATTEST:

Lee Woodward, City Secretary

APPROVED AS TO FORM:

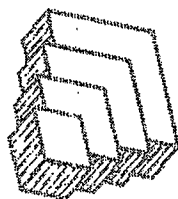
Leonard Schneider, City Attorney

PROJECT PLAN

April 2010
(Revised)

Tax Increment Reinvestment Zone No. 1

City of Huntsville, Texas



SCHRADER & CLINE, LLC

George R. Schrader

Larry D. Cline

4800 Broadway, Ste A Addison, TX 75001
972-661-1973 schcli@swbell.net

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

April 2010

The City of Huntsville, Texas established a Tax Increment Reinvestment Zone ("TIRZ") in August 2004 for the purpose of dedicating the increase in tax revenue generated within the TIRZ to provide funds for public infrastructure to encourage accelerated development and redevelopment in the IH-45/SH 30 area of the City. The original TIRZ consisted of approximately 805 acres.

Since creation of the TIRZ, there have been a number of changes to the Project Plan and subsequently to the TIRZ boundary. A summary of the changes follows:

As noted above, at its meeting on August 3, 2004, the Huntsville City Council approved Ordinance No. 2004-16 creating Tax Increment Reinvestment Zone No. 1 (TIRZ). The TIRZ encompassed an area of approximately 805 acres, generally along the west side of IH45 and south of SH30. The term of the TIRZ is 20 years. The public infrastructure Project Plan at the time of creation was for a total of \$3,319,000 (Exhibit A).

At its meeting on November 9, 2004, the City Council approved the Final Project Plan. The Final Project Plan revised the public infrastructure Project Plan from the Preliminary \$3,319,000 to the Final total of \$2,118,000 (Exhibit B & C). This change from the Preliminary Project Plan to the Final Project Plan eliminated the \$950,000 estimate for Technology plus 15% for Engineering / Surveying Fees and 10% for Contingency & Admin costs for the Project 1 (A) West Hills Park.

At its meeting on December 13, 2005, the City Council approved Ordinance 2005-12, an amendment to the public infrastructure Project Plan which revised the total from \$2,118,000 to \$4,569,000 (Exhibit D & E). This change added Project 2 (B) Bearkat Crossing for \$2,451,000 to Project 1 (A) West Hills Park.

APPENDIX

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

At its meeting on April 24, 2007, the City Council approved Ordinance 2007-14, an amendment to the public infrastructure Project Plan which revised the total to \$12,421,000 (Exhibit F & G). This amendment eliminated Project 2 (B) Bearkat Crossing, a total of \$2,451,000 and added two new projects -- Ravenwood Village for a total of \$8,303,000 and Transportation Projects for a total of \$2,000,000.

At its meeting on January 20, 2009, the City Council approved Ordinance 2009-15, an amendment to the public infrastructure Project Plan which revised the total to \$5,823,000 (Exhibit H & I). This amendment eliminated Project 1 (A) West Hills Park, a total of \$2,118,000 and reduced the total of Ravenwood Village from \$8,303,000 to \$3,823,000 by eliminating the \$4,480,000 residential portion of the project. City Council approval of Ordinance 2009-15 also revised the area of the TIRZ from approximately 805 acres to 68.3976 acres, the area of the proposed Ravenwood Village development.

At its meeting on April 20, 2010, the City Council revised the public improvement Project Plan and made some minor adjustments to the TIRZ boundary. The proposed Project Plan was revised to eliminate the \$2,000,000 for Transportation Projects (they lay outside the new TIRZ boundary) making the new public improvement Project Plan a total of \$3,823,000 (Exhibit J & K). The TIRZ boundary was modified from the 68.3976 acres approved by Ordinance 2009-15 to 79.80 acres (Exhibit L & M). This change expanded the boundary to the center lines of IH 45 and Smither Road to allow offsite paving (entrance / exit approaches from the project to IH45 and Smither Road) to be included in the Project Plan.

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: A

(Approved August 3, 2004)

West Hills Park		
Item	Estimated Cost \$K	
Water	50	
Waste Water	96	
Drainage	150	
Demolition	250	
Utility Relocations	250	
Technology	950	
Streets	356	
SUBTOTAL		2,102
Engineering/Surveying Fees (15%)	315	
Financing Costs	600	
SUBTOTAL		915
Contingency & Admin Costs (10%)	302	
TOTAL		3,319

Project Plan Exhibit: B

(November 9, 2004 Revision)

CURRENT PROJECT PLAN

Project	Estimated Cost \$K
Project 1 (A) West Hills Park	3,318

NEW PROJECT PLAN

Project	Estimated Cost \$K
Project 1 (A) West Hills Park	2,218

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: C

(Approved November 9, 2004)

PROJECT 1 (A)		
West Hills Park		
Item	Estimated Cost \$K	
Water	50	
Waste Water	96	
Drainage	150	
Demolition	250	
Utility Relocations	250	
Streets	356	
SUBTOTAL		1,152
Engineering/Surveying Fees (15%)	173	
Financing Costs	600	
SUBTOTAL		773
Contingency & Admin Costs (10%)	193	
TOTAL		2,118

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: D

(December 13, 2005 Revision)

CURRENT PROJECT PLAN

Project	Estimated Cost \$K
Project 1 (A) West Hills Park	2,118

NEW PROJECT PLAN

Project	Estimated Cost \$K
Project 1 (A) West Hills Park	2,118
Project 2 (B) Bearkat Crossing	2,451
TOTAL	4,569

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: E

(Approved December 13, 2005)

PROJECT 1 (A)		
West Hills Park		
Item	Estimated Cost \$K	
Water	50	
Waste Water	96	
Drainage	150	
Demolition	250	
Utility Relocations	250	
Streets	356	
	SUBTOTAL	1,152
Engineering/Surveying Fees (15%)	173	
Financing Costs	600	
	SUBTOTAL	773
Contingency & Admin Costs (10%)	193	
	<u>PROJECT 1 TOTAL</u>	2,118
PROJECT 2 (B)		
Bearkat Crossing		
Item	Estimated Cost \$K	
On-site Roadways (Incl. land cost)	1,591	
Water and Sanitary Sewer	305	
Engineering, Design & Fees	186	
Financing Cost (7%)	146	
	SUBTOTAL	2,228
Contingency & Admin	223	
	<u>PROJECT 2 TOTAL</u>	2,451
	<u>GRAND TOTAL</u>	4,569
<i>Note: Public improvement program and cost supplied by Developer.</i>		

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: F

(April 24, 2007 Revision)

CURRENT PROJECT PLAN

Project	Estimated Cost \$K
Project 1 (A) West Hills Park	2,118
Project 2 (B) Bearkat Crossing	2,451
TOTAL	4,569

NEW PROJECT PLAN

Project	Estimated Cost \$K
Project 1 (A) West Hills Park	2,118
Project 2 (B) Bearkat Crossing - Deleted	-
Ravenwood Village	8,303
Transportation Projects	2,000
TOTAL	12,421

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: G

(Approved April 24, 2007)

PROJECT 1 (A) West Hills Park		
Item	Estimated Cost \$K	
Water	50	
Waste Water	96	
Drainage	150	
Demolition	250	
Utility Relocations	250	
Streets	356	
SUBTOTAL		1,152
Engineering/Surveying Fees (15%)	173	
Financing Costs	600	
SUBTOTAL		773
Contingency & Admin Costs (10%)	193	
TOTAL		2,118
Ravenwood Village		
Item	Estimated Cost \$K	
East/West Public Road	645	
Offsite Paving	335	
Detention Ponds	1,511	
Retaining Walls	389	
Public On-site Water	230	
Public On-site Sanitary Sewer	214	
SUBTOTAL		3,324
Engineering/ Surveying Fees (15%)	499	
SUBTOTAL		3,823
Public Roads (Residential Development)	4,480	
RAVENWOOD VILLAGE TOTAL		8,303
Transportation Projects	2,000	
TOTAL		10,303
GRAND TOTAL		12,421

Project Plan Exhibit: H

(January 20, 2009 Revision)

CURRENT PROJECT PLAN

Project	Estimated Cost \$K
Project 1 (A) West Hills Park	2,118
Ravenwood Village	8,303
Transportation Projects	2,000
TOTAL	12,421

NEW PROJECT PLAN

Project	Estimated Cost \$K
Project 1 (A) West Hills Park - Deleted	-
Ravenwood Village	3,823
Transportation Projects	2,000
TOTAL	5,823

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: I

(Approved January 20, 2009)

RAVENWOOD VILLAGE		
Item	Estimated Cost \$K	
East/West Public Road	645	
Offsite Paving	335	
Detention Ponds	1,511	
Retaining Walls	389	
Public On-site Water	230	
Public On-site Sanitary Sewer	214	
	SUBTOTAL	3,324
Engineering/ Surveying Fees (15%)	499	
	SUBTOTAL	3,823
Transportation Projects	2,000	
	TOTAL	5,823

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: J

(April 20, 2010 Revision)

CURRENT PROJECT PLAN	
Project	Estimated Cost \$K
Ravenwood Village	3,823
Transportation Projects	2,000
TOTAL	5,823
NEW PROPOSED PROJECT PLAN	
Project	Estimated Cost \$K
Ravenwood Village	3,823
Transportation Projects - Deleted	-
TOTAL	3,823

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: K

(Approved April 20, 2010)

RAVENWOOD VILLAGE		
Item	Estimated Cost \$K	
East/West Public Road	645	
Offsite Paving	335	
Detention Ponds	1,511	
Retaining Walls	389	
Public On-site Water	230	
Public On-site Sanitary Sewer	214	
	SUBTOTAL	3,324
Engineering/ Surveying Fees (15%)	499	
	TOTAL	3,823

CITY OF HUNTSVILLE, TEXAS
Public Works - Surveying
448 State Hwy. 75 N
Huntsville, Texas 77320

THE STATE OF TEXAS §

COUNTY OF WALKER §

I, Leonard E. Woods, Registered Professional Land Surveyor No. 2524, do hereby certify that this document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

TAX INCREMENT REINVESTMENT ZONE NUMBER ONE
(REVISED MARCH 2010)

Being a tract of land containing 79.80 acres, more or less, within the corporate limits of the City of Huntsville, situated in the PLEASANT GRAY LEAGUE, Abstract No. 24 and the LEWIS COX LEAGUE, Abstract No. 13 both in Walker County, Texas, said 79.80 acres being comprised of the following:

- (1) Lots 1 through 14, inclusive, Block 1, of the HUNTSVILLE RETAIL CENTER subdivision, according to a Plat, dated October 2008 recorded in Volume 4, page 162, Plat Records of Walker County, Texas.
- (2) A called 0.9013 acre tract described by metes and bounds labeled "Proposed Ravenwood Village Drive" and attached as Exhibit F in a Property Owners Agreement between Ravenwood Village, Ltd. and MCN Realty LP recorded in Volume 864, page 64, Official Public Records of Walker County, Texas.
- (3) 10.57 acres, more or less, being a portion of the right-of-way of Interstate Highway No. 45, out of and a part of the following parcels:
 - (1) a called 55.0 acre parcel described in a Right-Of-Way Deed from John T. Smither, et al to the State of Texas dated November 8, 1956 recorded in Volume 155, page 422, Deed Records of Walker County, Texas;
 - (2) "Parcel #1", called 2.0 acres, in a Right-Of-Way Deed from John T. Smither, et al to the State of Texas dated February 4, 1957 recorded in Volume 155, page 427, Deed Records;
- (4) 0.83 acre, more or less, being a portion of the right-of-way of Smither Drive, out of and a part of the following parcels:
 - (1) "Parcel 28", called 4.067 acres, in a Right-Of-Way Deed from Florine R. Klusmann to the City of Huntsville, Texas dated September 3, 1999 recorded in Volume 398, page 445, Official Public Records;
 - (2) "Parcel 34", called 0.198 acre, in a Right-Of-Way Deed from Ruth H. Smither Family Trust and the Estate of Robert B. Smither to the City of Huntsville, Texas dated September 13, 1999 recorded in Volume 402, page 458, Official Public Records;

said 79.80 acre tract being described by metes and bounds to wit:

BEGINNING, at the northwest corner of Lot 3, Block 1 of said HUNTSVILLE RETAIL CENTER in the most northerly east line of RESERVE A - 52.771 AC of same subdivision, said Point of Beginning being also the southwest corner of a 70 foot wide right-of-way for roadway known locally as Ravenwood Village Drive;

THENCE N 03°40'07" W, with the west line of said 70 foot wide right-of-way and the most Northerly east line of RESERVE A - 52.771 AC, at 35.00 feet pass the northeast corner of said RESERVE A, a point for corner, in the south line of a called 32.2328 acre tract described in a Deed from Kimberly Land Ltd. to MNC Realty, L.P. dated April 12, 2001 recorded in Volume 456, page 155, Official Public Records, said point being also the southwest corner of said 0.9013 acre parcel, out of said MNC Realty, L.P. 32.2328 acre tract, recorded in Volume 864, page 64, Official Public Records,

EXHIBIT "A"

Page 1 of 2

Tax Increment Reinvestment Zone Number One
 Revised March 2010
 City of Huntsville
 Walker County, Texas

continuing N 03°40'07" W, with the west line of said 70 foot wide right-of-way, a total distance of 70.00 feet to northwest corner of said 0.9013 acre parcel;

THENCE N 86°19'46" E, with the north right-of-way line of said Ravenwood Village Drive, a distance of 984.44 feet to the Point of Curvature of a curve to the left, having a Radius of 150.00 feet, a Central Angle of 28°56'23" and a Chord of N 71°51'34" E 74.96 feet;

THENCE, continuing with the north right-of-way line of said Ravenwood Village Drive along said curve to the left, an arc distance of 75.76 feet to the Point of Tangency;

THENCE N 57°23'23" E, continuing with the north right-of-way line of said Ravenwood Village Drive, at 15.56 feet pass the northeast corner of said 0.9013 acre parcel in the west right-of-way line of Interstate Highway No. 45 and the east line of said State of Texas 55.0 acre parcel, continuing for a total distance of 190.56 feet to a point in the median of said Interstate Highway No. 45;

THENCE S 32° 36'37" E, with the approximate centerline of said Interstate Highway No. 45, a distance of 2260.64 to a point;

THENCE S 57° 23'23" W a distance of 617.19 to the southeast corner of said City of Huntsville, Texas 0.198 acre right-of-way parcel, a point for corner in the southwest line of said State of Texas 2.0 acre right-of-way parcel;

THENCE S 84° 26'36" W a distance of 983.04 to a point near the back of the concrete curb, on the north side, of said Smither Drive;

THENCE N 32° 36'30" W a distance of 63.22 feet to the common south corner of Lot 11 and RESERVE A of said HUNTSVILLE RETAIL CENTER;

THENCE, with the common westerly lines of Lots 11, 7 and 3 and the easterly lines of RESERVE A of said HUNTSVILLE RETAIL CENTER, as follows:

- (1.) N 32° 36'30" W a distance of 211.80 to the Point of Curvature of a non-tangent curve to the right, having a Radius of 70.00 feet, a Central Angle of 96°12'49" and a Chord of N 32° 36'30" W 104.22 feet;
- (2.) Northwestery and northerly, along said non-tangent curve to the right, an arc distance of 117.55 feet to a point for corner;
- (3.) N 32° 36'30" W a distance of 557.62 to a point for corner;
- (4.) S 57° 23'23" W a distance of 25.88 to a point for corner;
- (5.) N 32° 36'37" W a distance of 97.24 to a point for corner;
- (6.) N 50° 20'50" W a distance of 204.50 to a point for corner;
- (7.) N 63° 53'10" W a distance of 79.52 to a point for corner;
- (8.) N 35° 34'09" W a distance of 38.69 to a point for corner;
- (9.) N 07° 21'27" W a distance of 65.56 to a point for corner;
- (10.) N 14° 40'28" E a distance of 299.10 to a point for corner;
- (11.) N 32° 36'33" W a distance of 255.77 to a point for corner;

and N 03° 40'07" W a distance of 450.14 to the POINT OF BEGINNING.

Signed

Leonard E. Woods

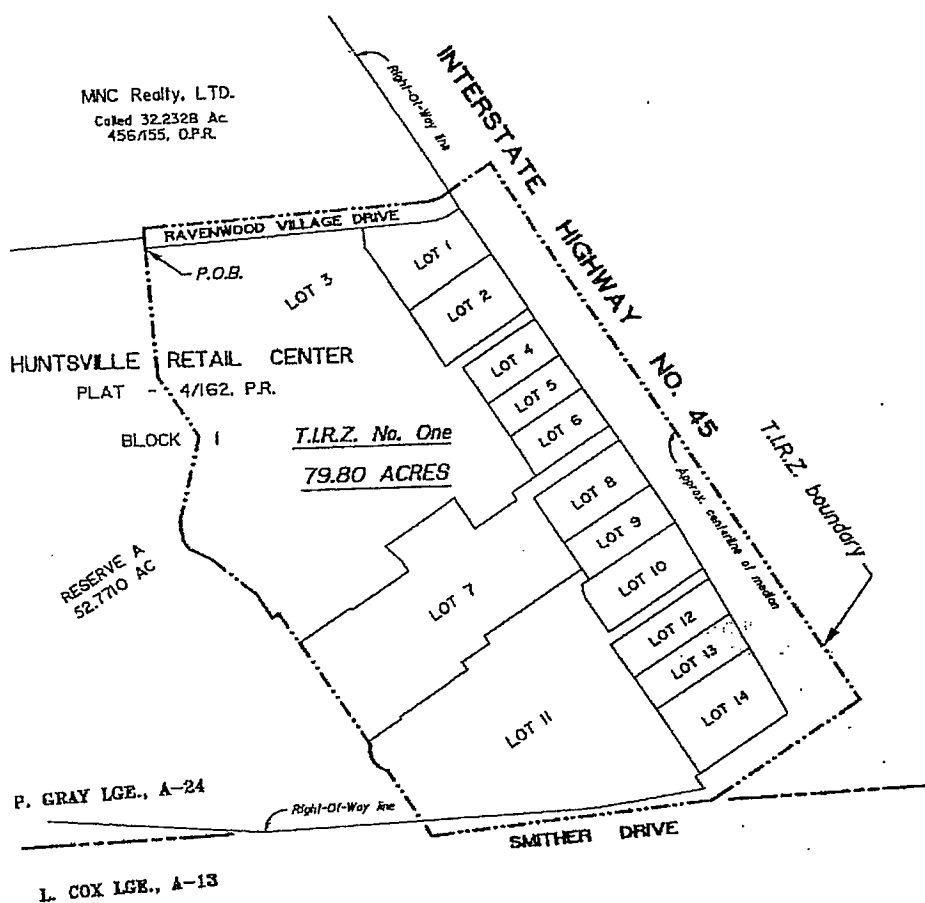
Leonard E. Woods

Reg. Prof. Land Surveyor No. 2524

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EXHIBIT "A"
 Page 2 of 2





--NOTE:

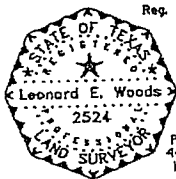
1. The purpose of the plat is to reconfigure the boundaries of Tax Increment Reinvestment Zone Number One to include a portion of the right-of-ways of Interstate Highway No. 45 and Smither Drive.

2. This plat is prepared concurrently with a metes and bounds description labeled "EXHIBIT A".

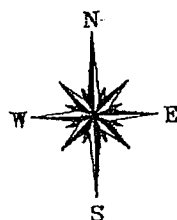
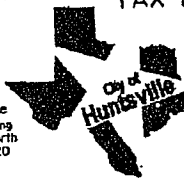
I, Leonard E. Woods, Registered Professional Land Surveyor No. 2524, do hereby certify that this document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Signed:

Leonard E. Woods
Leonard E. Woods
Reg. Prof. Land Surveyor No. 2524
March 2, 2010



City of Huntsville
Public Works - Surveying
448 State Hwy. 75 North
Huntsville, Texas 77320
Project No. 09-05-D1



PLAT OF

TAX INCREMENT REINVESTMENT ZONE

NUMBER ONE

CITY OF HUNTSVILLE

P. GRAY LEAGUE, A-24

L. COX LEAGUE, A-13

WALKER COUNTY, TEXAS

MARCH 2010

SCALE 1" = 400 FEET

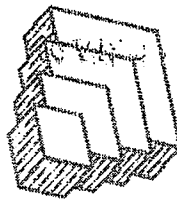
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EXHIBIT "B"

FINANCE PLAN

April 2010
(Revised)

Tax Increment Reinvestment Zone No. 1
City of Huntsville, Texas



SCHRADER & CLINE, LLC

George R. Schrader

Larry D. Cline

4800 Broadway, Ste A Addison, TX 75001
972-661-1973 schcli@swbell.net

April 2010

The Financing Plan provides information on the projected monetary impact that Tax Increment Financing Reinvestment Zone No. 1 (TIRZ) could have on the property described in *Finance Plan Exhibit: A* and shown in *Finance Plan Exhibit: B*. It will also describe how that impact can be utilized to enhance the area and region through leveraging the resources of each entity that participates in the project.

Below is a summary of the Financing Plan items required by law.

1. The proposed public improvements in the TIRZ may include:

- Capital costs, including the actual costs of the construction of public works, public improvements, new buildings, structures, and fixtures; and the actual costs of the acquisition of land and the clearing and grading of land;
- Financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;
- Any real property assembly costs;
- Professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;
- Any relocation costs;
- Organizational costs, including costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the TIRZ, and the cost of implementing the project plan for the TIRZ;
- Interest before and during construction and for one year after completion of construction, whether or not capitalized;
- The amount of any contributions made by the municipality from general revenue for the implementation of the project plan;
- Imputed administrative costs, including reasonable charges for the time spent by employees of the municipality in connection with the implementation of a project plan;
- The cost of operating the TIRZ and project facilities; and
- Payments made at the discretion of the governing body of the municipality that the municipality finds necessary or convenient to the creation of the TIRZ or to the implementation of the project plans for the TIRZ.

FINANCE PLAN – HUNTSVILLE TIRZ NO. 1

The specific capital improvement projects now anticipated to be undertaken in Huntsville TIRZ No. 1, are included in *Finance Plan Exhibit: C*.

2. **Estimated Project Cost of TIRZ, including administrative expenses.**
 - Project costs are estimated at approximately \$3.823 million dollars. Specific cost estimates are included in *Finance Plan Exhibit: C*.
3. **Economic Feasibility Study.**
 - An economic feasibility analysis has been completed and is included as *Finance Plan Exhibit: D*.
4. **The estimated amount of bonded indebtedness to be incurred.**
 - Initial project related costs will be advanced by the Developer. Bonds may be issued when adequate tax increment has been created to support debt service.
5. **The time when related costs or monetary obligations are to be incurred.**
 - Please refer to *Finance Plan Exhibit: C* for details regarding the phasing and type of improvement costs anticipated.
6. **A description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs including the percentage of tax increment to be derived from the property taxes of each taxing unit on real property in the TIRZ**
 - Project costs will be financed through loans advanced by developers or the use of tax increment funds received on a pay-as-you-go basis. No new debt is envisioned at this time, but bonds may be issued at a later date when adequate tax increment has been created to support debt service. The revenue sources will be the real property taxes captured by the TIRZ, which will account for 100% of revenues used to fund project costs or bond debt service. For the Financial Plan, it is assumed that the City will participate at 100% of its incremental taxable value and the County will participate at 50% of its tax rate, not to exceed \$0.3125/\$100 valuation.
7. **The current total appraised value of taxable real property in the revised TIRZ boundary.**
 - The appraised base value of the taxable real property in the TIRZ using the 2009 values provided by the Walker County Appraisal District is \$330,668 for the City and \$311,415 for the County.

FINANCE PLAN – HUNTSVILLE TIRZ NO. 1

8. The estimated appraised value of the improvements in the TIRZ during each year of its existence.
- The estimated appraised value of the improvements in the TIRZ per year is listed in the following table.

Table 1: Assessed Real Property Value of Anticipated New Development TIRZ No. 1, Huntsville, Texas Years 2004-2023	
YEAR	TOTAL ASSESSED VALUE, \$M
2004	\$ 12.5
2005	12.1
2006	12.2
2007	12.2
2008	12.9
2009	6.7
2010	9.6
2011	24.0
2012	32.1
2013	44.9
2014	44.9
2015	44.9
2016	44.9
2017	44.9
2018	44.9
2019	44.9
2020	44.9
2021	44.9
2022	44.9
2023	44.9

FINANCE PLAN – HUNTSVILLE TIRZ NO. 1

- The estimated annual incremental funds available from future development in the TIRZ are listed in the following table.

Table 2: Annual Incremental Funds Available from TIRZ No. 1, Huntsville, Texas Years 2004-2023						
Year	Assessed Value, \$M	Base Assessed Value, \$M	Annual Captured Value, \$M	TIRZ Funds, \$K City \$0.4007	TIRZ Funds, \$K County \$0.2885	TIRZ Funds, \$K Total \$0.6892
2004	12.5	12.5	-	-	-	-
2005	12.1	12.5	-	-	-	-
2006	12.2	12.5	-	-	-	-
2007	12.2	12.5	-	-	-	-
2008	12.9	12.5	0.4	-	-	-
2009	6.7	0.3	6.4	2	1	3*
2010	9.6	0.3	9.3	26	18	44
2011	24.0	0.3	23.7	37	27	64
2012	32.1	0.3	31.8	95	69	164
2013	44.9	0.3	44.6	127	92	219
2014	44.9	0.3	44.6	179	128	307
2015	44.9	0.3	44.6	179	128	307
2016	44.9	0.3	44.6	179	128	307
2017	44.9	0.3	44.6	179	128	307
2018	44.9	0.3	44.6	179	128	307
2019	44.9	0.3	44.6	179	128	307
2020	44.9	0.3	44.6	179	128	307
2021	44.9	0.3	44.6	179	128	307
2022	44.9	0.3	44.6	179	128	307
2023	44.9	0.3	44.6	179	128	307
2024	-	-	-	179	128	307
			TOTAL	2,256	1,615	3,871

* Assessed value increase prior to new private development.

9. The duration of the TIRZ:

- The TIRZ was created August 3, 2004. It is proposed that the TIRZ exist for twenty (20) years with termination of the TIRZ set as August 2, 2024 or the date when all project costs are paid and any debt is retired, whichever comes first.

CITY OF HUNTSVILLE, TEXAS
Public Works - Surveying
448 State Hwy. 75 N
Huntsville, Texas 77320

THE STATE OF TEXAS §

COUNTY OF WALKER §

I, Leonard E. Woods, Registered Professional Land Surveyor No. 2524, do hereby certify that this document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

TAX INCREMENT REINVESTMENT ZONE NUMBER ONE
(REVISED MARCH 2010)

Being a tract of land containing 79.80 acres, more or less, within the corporate limits of the City of Huntsville, situated in the PLEASANT GRAY LEAGUE, Abstract No. 24 and the LEWIS COX LEAGUE, Abstract No. 13 both in Walker County, Texas, said 79.80 acres being comprised of the following:

- (1) Lots 1 through 14, inclusive, Block 1, of the HUNTSVILLE RETAIL CENTER subdivision, according to a Plat, dated October 2008 recorded in Volume 4, page 162, Plat Records of Walker County, Texas.
- (2) A called 0.9013 acre tract described by metes and bounds labeled "Proposed Ravenwood Village Drive" and attached as Exhibit F in a Property Owners Agreement between Ravenwood Village, Ltd. and MCN Realty LP recorded in Volume 864, page 64, Official Public Records of Walker County, Texas.
- (3) 10.57 acres, more or less, being a portion of the right-of-way of Interstate Highway No. 45, out of and a part of the following parcels:
 - (1) a called 55.0 acre parcel described in a Right-Of-Way Deed from John T. Smither, et al to the State of Texas dated November 8, 1956 recorded in Volume 155, page 422, Deed Records of Walker County, Texas;
 - (2) "Parcel #1", called 2.0 acres, in a Right-Of-Way Deed from John T. Smither, et al to the State of Texas dated February 4, 1957 recorded in Volume 155, page 427, Deed Records;
- (4) 0.83 acre, more or less, being a portion of the right-of-way of Smither Drive, out of and a part of the following parcels:
 - (1) "Parcel 28", called 4.067 acres, in a Right-Of-Way Deed from Florine R. Klusmann to the City of Huntsville, Texas dated September 3, 1999 recorded in Volume 398, page 445, Official Public Records;
 - (2) "Parcel 34", called 0.198 acre, in a Right-Of-Way Deed from Ruth H. Smither Family Trust and the Estate of Robert B. Smither to the City of Huntsville, Texas dated September 13, 1999 recorded in Volume 402, page 458, Official Public Records;

said 79.80 acre tract being described by metes and bounds to wit:

BEGINNING, at the northwest corner of Lot 3, Block 1 of said HUNTSVILLE RETAIL CENTER in the most northerly east line of RESERVE A - 52.771 AC of same subdivision, said Point of Beginning being also the southwest corner of a 70 foot wide right-of-way for roadway known locally as Ravenwood Village Drive;

THENCE N 03°40'07" W, with the west line of said 70 foot wide right-of-way and the most Northerly east line of RESERVE A - 52.771 AC, at 35.00 feet pass the northeast corner of said RESERVE A, a point for corner, in the south line of a called 32.2328 acre tract described in a Deed from Kimberly Land Ltd. to MNC Realty, L.P. dated April 12, 2001 recorded in Volume 456, page 155, Official Public Records, said point being also the southwest corner of said 0.9013 acre parcel, out of said MNC Realty, L.P. 32.2328 acre tract, recorded in Volume 864, page 64, Official Public Records,

EXHIBIT "A"
Page 1 of 2

Tax Increment Reinvestment Zone Number One
Revised March 2010
City of Huntsville
Walker County, Texas

continuing N 03°40'07" W, with the west line of said 70 foot wide right-of-way, a total distance of 70.00 feet to northwest corner of said 0.9013 acre parcel;

THENCE N 86°19'46" E, with the north right-of-way line of said Ravenwood Village Drive, a distance of 984.44 feet to the Point of Curvature of a curve to the left, having a Radius of 150.00 feet, a Central Angle of 28°56'23" and a Chord of N 71°51'34" E 74.96 feet;

THENCE, continuing with the north right-of-way line of said Ravenwood Village Drive along said curve to the left, an arc distance of 75.76 feet to the Point of Tangency;

THENCE N 57°23'23" E, continuing with the north right-of-way line of said Ravenwood Village Drive, at 15.56 feet pass the northeast corner of said 0.9013 acre parcel in the west right-of-way line of Interstate Highway No. 45 and the east line of said State of Texas 55.0 acre parcel, continuing for a total distance of 190.56 feet to a point in the median of said Interstate Highway No. 45;

THENCE S 32° 36'37" E, with the approximate centerline of said Interstate Highway No. 45, a distance of 2260.64 to a point;

THENCE S 57° 23'23" W a distance of 617.19 to the southeast corner of said City of Huntsville, Texas 0.198 acre right-of-way parcel, a point for corner in the southwest line of said State of Texas 2.0 acre right-of-way parcel;

THENCE S 84° 26'36" W a distance of 983.04 to a point near the back of the concrete curb, on the north side, of said Smither Drive;

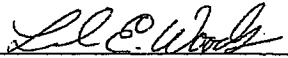
THENCE N 32° 36'30" W a distance of 63.22 feet to the common south corner of Lot 11 and RESERVE A of said HUNTSVILLE RETAIL CENTER;

THENCE, with the common westerly lines of Lots 11, 7 and 3 and the easterly lines of RESERVE A of said HUNTSVILLE RETAIL CENTER, as follows:

- (1.) N 32° 36'30" W a distance of 211.80 to the Point of Curvature of a non-tangent curve to the right, having a Radius of 70.00 feet, a Central Angle of 96°12'49" and a Chord of N 32° 36'30" W 104.22 feet;
- (2.) Northwesterly and northerly, along said non-tangent curve to the right, an arc distance of 117.55 feet to a point for corner;
- (3.) N 32° 36'30" W a distance of 557.62 to a point for corner;
- (4.) S 57° 23'23" W a distance of 25.88 to a point for corner;
- (5.) N 32° 36'37" W a distance of 97.24 to a point for corner;
- (6.) N 50° 20'50" W a distance of 204.50 to a point for corner;
- (7.) N 63° 53'10" W a distance of 79.52 to a point for corner;
- (8.) N 35° 34'09" W a distance of 38.69 to a point for corner;
- (9.) N 07° 21'27" W a distance of 65.56 to a point for corner;
- (10.) N 14° 40'28" E a distance of 299.10 to a point for corner;
- (11.) N 32° 36'33" W a distance of 255.77 to a point for corner;

and N 03° 40'07" W a distance of 450.14 to the POINT OF BEGINNING.

Signed



Leonard E. Woods

Reg. Prof. Land Surveyor No. 2524

Y:\SURVEYORS\PROJECTS\COM10\FSTIRZ1\TRZ REV 0310\TRZ_1_REV_0310.fna.docx

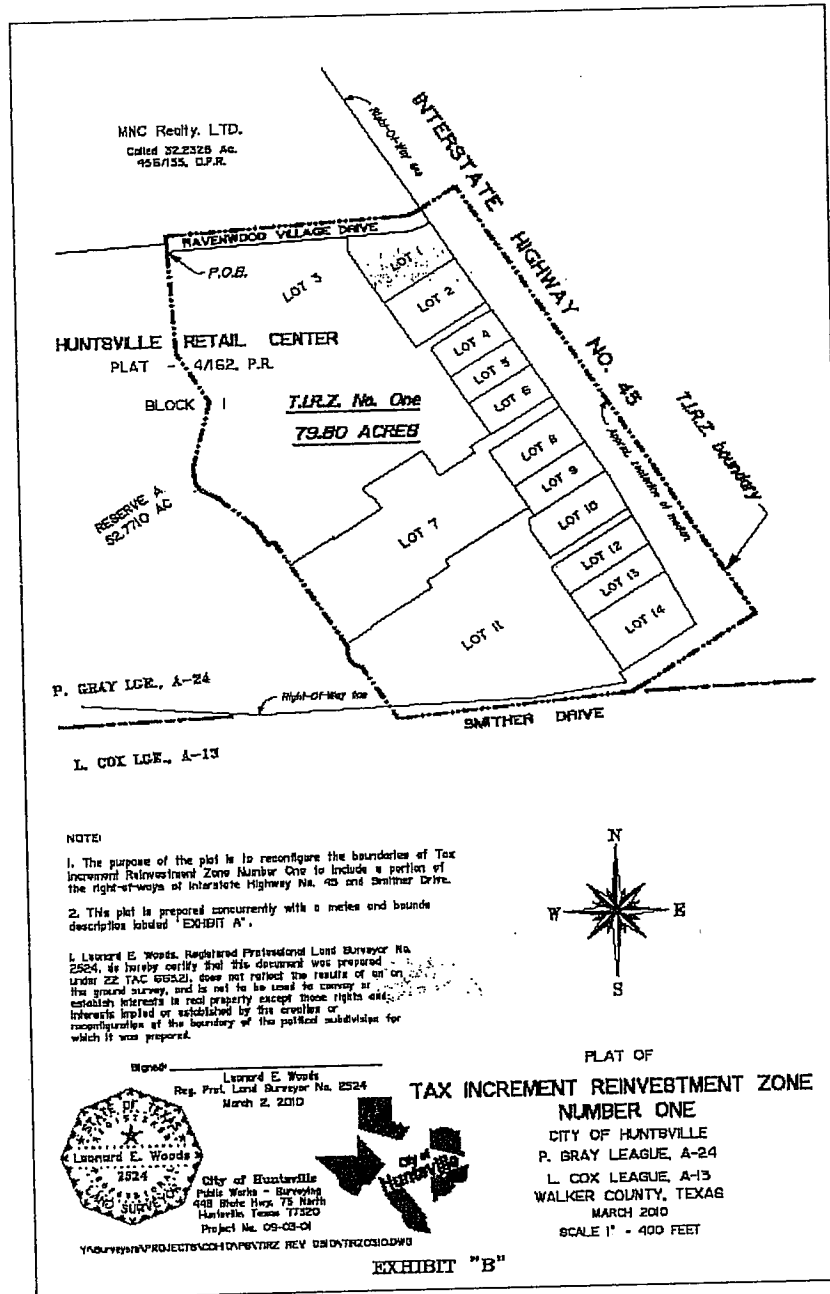
EXHIBIT "A"
Page 2 of 2



FINANCE PLAN - HUNTSVILLE TIRZ NO. 1

Finance Plan Exhibit: B

Note: Drawing has been reformatted from its original scale



Finance Plan Exhibit: C**PUBLIC INFRASTRUCTURE**

RAVENWOOD VILLAGE		
Item	Estimated Cost \$K	
East/West Public Road	645	
Offsite Paving	335	
Detention Ponds	1,511	
Retaining Walls	389	
Public On-site Water	230	
Public On-site Sanitary Sewer	214	
	SUBTOTAL	3,324
Engineering/ Surveying Fees (15%)	499	
	TOTAL	3,823

FEASIBILITY ANALYSIS

April 2010
(Revised)

Tax Increment Reinvestment Zone No. 1

City of Huntsville, Texas



SCHRADER & CLINE, LLC

George R. Schrader

Larry D. Cline

4800 Broadway, Ste A Addison, TX 75001
972-661-1973 schcli@swbell.net

FINANCE PLAN: EXHIBIT D—Feasibility Analysis***INDEX***

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FINANCE PLAN: EXHIBIT D—Feasibility Analysis***FORWARD***

Schrader & Cline, LLC was asked to prepare a Revised Feasibility Analysis using tax increment financing for the Ravenwood Area Tax Increment Reinvestment Zone No. 1 in the City of Huntsville, Texas.

Section I summarizes the history of Huntsville and discusses the current situation.

Section II details the tax increment analysis.

Section III contains exhibits.

The following projections of development and tax revenues are subject to change. As underlying conditions in the national and regional economy change, the pace and value of new development and redevelopment projected for the TIRZ area may shift. Future property tax rates are particularly difficult to predict given their dependence on changes in the tax base, the mix of taxes levied and the various jurisdictions' overall fiscal and budgetary policies. Thus, the projected tax increments are subject to change. The analysis of future tax increment funds is dependent on a series of projections, assumptions, and other inputs; the report should be reviewed in totality.

Neither this report nor its conclusions may be referred to or included in any prospectus or part of any offering made in connection with private syndication of equity, sale of bonds, sale of securities or sale of participation interests to the public without express written approval



SCHRADER & CLINE, LLC
Schrader & Cline, LLC
Addison, Texas
April 2010

FINANCE PLAN: EXHIBIT D—Feasibility Analysis***SECTION I: HISTORY/CURRENT SITUATION***

HISTORY

The City of Huntsville created Tax Increment Reinvestment Zone (TIRZ) No. 1 on August 3, 2004 (Ordinance No. 2004-16). The TIRZ encompassed an area of approximately 805 acres, generally along the west side of IH 45 and south of SH 30. The term of the TIRZ was established as 20 years. At the time of creation, a public infrastructure Project Plan totalling \$3,319,000 was expected to generate private development in West Hills Park of \$42,575,000.

In December 2005 , (Ordinance 2005-12) a second private development known as Bearkat Crossing was added to the TIRZ which increased the public infrastructure Project Plan to \$4,569,000 and the expected private development value to \$72,575,000.

In April 2007, (Ordinance 2007-14) the Bearkat Crossing private development was eliminated and a new private development, Ravenwood Village, was added to the TIRZ. This change increased the public infrastructure Project Plan to \$12,421,000 and the expected private development value to \$139,406,000.

In January 2009, (Ordinance 2009-15) the West Hills Park private development and the housing portion of Ravenwood Village were eliminated. This change reduced the public infrastructure Project Plan to \$5,823,000 and the expected private development value to \$61,831,000. The change made in January 2009, also reduced the area of the TIRZ from approximately 805 acres to 68.3976 acres, the area of the proposed Ravenwood Village development.

CURRENT SITUATION

At meetings in April 2010, the TIRZ Board and City Council revised the public infrastructure Project Plan and made some minor adjustments to the TIRZ Boundary. The proposed Project Plan is revised to eliminate \$2,000,000 for Transportation Projects (which lay outside the new TIRZ boundary) making the new public infrastructure Project Plan a total of \$3,823,000 (Exhibit A). The TIRZ Boundary is modified from 68.3976 acres to 79.80 acres to allow for entrance / exit approaches to the Ravenwood Village project to IH 45 and Smither Road (see Project Plan and Finance Plan Exhibit A & B).

SECTION II: TAX INCREMENT ANALYSIS

This section documents the detailed analysis and inputs used to generate the tax increment revenue estimates. Tax Increment financing involves:

- Designating an eligible redevelopment area as a tax increment financing reinvestment zone;
- Soliciting participation of the taxing jurisdictions (County only);
- Setting the assessment base at the level of the most recent assessment; and
- Placing tax revenues generated by the increase in assessed value to a tax increment fund for funding public improvements.

Thus, future tax increment revenues depend on four elements:

- The timing and added value of new development;
- Appreciation of existing land and improvements;
- The loss of value from any existing improvements demolished to make way for new development; and
- Future tax rates and the percentage of participation of each taxing jurisdiction.

Assessment policies in Walker County generally set building assessments at 100 percent of fair market value, which may be somewhat less than construction costs for new construction. Values used in this analysis have been adjusted accordingly. Assessed values are established as of January 1 of the tax year. Thus, development in 2009 goes on the tax rolls for the Tax Year 2010. In this analysis, to be conservative, no increase in existing land value will be included and new development values have not been increased after full build-out. In addition, only taxes from increases in real property values are directed to the TIRZ Fund. Taxes from increases in business personal property and inventory values continue to flow to each taxing jurisdiction.

The original base taxable value for the 805 acre TIRZ area was \$12,520,870 for the City and \$12,475,820 for the County. With the reduction in TIRZ area from 805 acres to 79.80 acres, the new base taxable value is now \$330,668 for the City and \$311,415 for the County. Taxes on this amount will continue to flow to each taxing jurisdiction during the remaining life of the TIRZ.

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

The TIRZ Fund generated by the incremental value of new development shown in Exhibit B is calculated by multiplying the incremental assessed value by the property tax rates of participating jurisdictions.

Fiscal year 2009 tax rates used:

JURISDICTION	TAX RATE PER \$100 OF ASSESSED VALUE
City of Huntsville	\$ 0.4007
Walker County (50%)	\$ 0.2885

Over the 20-year projection period, we have conservatively assumed that the nominal tax rates will remain constant. Taxes generated against tax year 2009 values as of January 1, 2009 are due and collected at the beginning of 2010.

With the TIRZ, new private development value over twenty years as shown in Exhibit B will total \$44.58 million with an associated business personal property and inventory value of \$9.808 million. These projected real and business personal property and inventory incremental assessed values would yield the following tax revenues as shown in Exhibits C and D:

JURISDICTION	TOTAL 20-YEAR TAX REVENUE
TIRZ Fund	\$ 3,868,000
City of Huntsville	\$ 492,000
Walker County	\$ 2,332,000

In addition to income from the real property and business personal property and inventory with the TIRZ shown above, the City and County will also benefit from sales tax income as shown in Exhibit E:

JURISDICTION	TOTAL 20-YEAR TAX REVENUE
City of Huntsville	\$ 10,849,000
Walker County	\$ 3,615,000

Based on this analysis, establishment of the TIRZ will provide income to the TIRZ Fund of \$ 3.868 million dollars over the next twenty years, which will fund the projected \$3.823 million of public infrastructure projects. Total income to the City and County during the life of the TIRZ is shown in Exhibit F. In addition, tax revenue (including sales tax) for the first year after expiration of the TIRZ (21-years) will be \$1,061,000 and \$723,000 for the City and County respectively.

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

FINANCE PLAN: EXHIBIT D—Feasibility Analysis**Feasibility Analysis Exhibit: A****PUBLIC INFRASTRUCTURE****PROJECT PLAN**

RAVENWOOD VILLAGE		
Item	Estimated Cost \$K	
East/West Public Road	645	
Offsite Paving	335	
Detention Ponds	1,511	
Retaining Walls	389	
Public On-site Water	230	
Public On-site Sanitary Sewer	214	
SUBTOTAL		3,324
Engineering/ Surveying Fees (15%)	499	
TOTAL		3,823

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: B

BUILDOUT SCHEDULE

YEAR	USE	SIZE, KSF	VALUE, \$K
2009	Discount Warehouse (Target)	128.8	6,440
2010	Lease Space	3.9	351
	National Retailers	28.1	2,525
	SUBTOTAL	32.0	2,876
2011	Lease Space	19.2	1,724
	National Retailers	31.0	3,448
	Grocery Store	65.0	5,850
	Pads - Fast Food Restaurants	10.1	1,869
	Pads - Full Service Restaurants	6.8	1,525
	SUBTOTAL	132.1	14,416
2012	Lease Space	8.0	716
	National Retailers	60.1	5,413
	Pads - Bank	4.3	538
	Pads - Fast Food Restaurants	6.4	1,433
	SUBTOTAL	78.8	8,100
2013	Lease Space	16.7	1,499
	National Retailers	55.1	4,955
	Pads - Fast Food Restaurants	7.8	1,758
	Pads - Automotive	12.8	3,194
	Pads - Full Service Restaurants	7.3	1,342
	SUBTOTAL	99.7	12,748
	TOTAL	471.4	44,580

FINANCE PLAN: EXHIBIT D—Feasibility Analysis**Feasibility Analysis Exhibit: C****TIRZ FUND**

YEAR	DEVELOPMENT VALUE, \$K	DEVELOPMENT VALUE CUM, \$K	TIRZ FUND, \$K*
2004	-	-	-
2005	-	-	-
2006	-	-	-
2007	-	-	-
2008	-	-	-
2009	6,440	6,440	-
2010	2,876	9,316	44
2011	14,416	23,732	64
2012	8,100	31,832	164
2013	12,748	44,580	219
2014	-	44,580	307
2015	-	44,580	307
2016	-	44,580	307
2017	-	44,580	307
2018	-	44,580	307
2019	-	44,580	307
2020	-	44,580	307
2021	-	44,580	307
2022	-	44,580	307
2023	-	44,580	307
2024	-	-	307
TOTAL	44,580	44,580	3,868

*Based on 2099 tax rates of: City \$0.4007/\$100 valuation
County (50%) \$0.2885/\$100 valuation

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: D

REAL AND BUSINESS PERSONAL PROPERTY INCOME

YEAR	Dev Cum Value \$K	*	INCOME TO	
			** City, \$ K	*** County, \$K
2004	-	-	-	-
2005	-	-	-	-
2006	-	-	-	-
2007	-	-	-	-
2008	-	-	-	-
2009	6,440	1,417	-	-
2010	9,316	2,116	6	27
2011	23,732	5,221	8	39
2012	31,832	7,003	21	99
2013	44,580	9,808	28	132
2014	44,580	9,808	39	185
2015	44,580	9,808	39	185
2016	44,580	9,808	39	185
2017	44,580	9,808	39	185
2018	44,580	9,808	39	185
2019	44,580	9,808	39	185
2020	44,580	9,808	39	185
2021	44,580	9,808	39	185
2022	44,580	9,808	39	185
2023	44,580	9,808	39	185
2024	-	-	39	185
TOTAL	44,580	9,808	492	2,332
* Based on BPP&I value at 22% of real property values. ** Based on tax rate of \$0.4007/\$100 valuation *** Based on tax rate of \$0.2885/\$100 valuation for Real Property, and \$0.577/\$100 valuation on BPP&I values.				

FINANCE PLAN: EXHIBIT D—Feasibility Analysis**Feasibility Analysis Exhibit: E****SALES TAX INCOME, \$K**

YEAR	CITY	COUNTY
2004	-	-
2005	-	-
2006	-	-
2007	-	-
2008	-	-
2009	217	72
2010	271	90
2011	469	156
2012	619	206
2013	843	281
2014	843	281
2015	843	281
2016	843	281
2017	843	281
2018	843	281
2019	843	281
2020	843	281
2021	843	281
2022	843	281
2023	843	281
TOTAL	10,849	3,615

Note—Sales Tax Based On: 1 ½ % for City ½% for County

\$400/ Sq. Ft. Sales For Restaurants

\$125 /Sq. Ft. Sales For All Others

Additional 10% deducted for estimated reduction of sales at existing retail.

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: F
SUMMARY OF TAX INCOME - \$K

CITY	INCOME
Real Property, BPP&I	492
Sales (1 ½ %)	10,849
<i>TOTAL</i>	<i>11,341</i>

COUNTY	INCOME
Real Property, BPP&I	2,332
Sales (½ %)	3,615
<i>TOTAL</i>	<i>5,947</i>

*In addition to the amounts above,
\$3,868 flows to TIRZ Fund.*

City of Huntsville, Texas

Huntsville Tax Increment Reinvestment Zone, No. 1

ANNUAL REPORT

2009



KITCHELL & GENTRY, LLC

City of Huntsville, Texas
Huntsville Tax Increment Reinvestment Zone, No. 1

As of September 30, 2009

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- 1) Year End Summary of Meetings/City Council Actions**
- 2) Public Infrastructure Projects**
- 3) Private Development Projects**
- 4) Capital Improvement Plan Budget**
- 5) Budget vs. Expenditures**
- 6) TIRZ Fund**
- 7) Annual Report**

City of Huntsville, Texas

Huntsville Tax Increment Reinvestment Zone, No. 1

As of September 30, 2009

YEAR END SUMMARY OF TIRZ BOARD MEETINGS AND CITY COUNCIL ACTIONS

During the period of October 1, 2008 through September 30, 2009, the TIRZ Board met on the following dates:

November 11, 2008 - It was noted that a quorum of the TIRZ Board could be present at a City Council meeting to discuss an ordinance amending the Project Plan and agreements relating to the Ravenwood Village project.

December 1, 2008 - A work session was held to review the TIRZ procedures and organization and to review Council's vision and goals for the TIRZ. During the regular meeting, no action was taken on the proposed Hampton Inn and Marriott Hotel projects.

January 20, 2009 - The City Council, TIRZ Board and Walker County Commissioners Court held a joint work session to assess the performance and viability of TIRZ No. 1.

February 18, 2009 - The Board recognized the amended Project Plan and Finance Plan and reduction of the TIRZ boundary previously authorized by the City Council.

During the period October 1, 2008 through September 30, 2009, the Huntsville City Council took the following actions:

November 11, 2008 - The City Council amended the Ravenwood Development Agreement to eliminate the Residential Development (\$4,480K) and provide a Ravenwood Project Cap for reimbursement of \$3,520K.

January 20, 2009 - The City Council met in Special Session and approved Ordinance 2009-15 which amended the Project Plan and Finance Plan and reduced the boundary of TIRZ No.1. Ordinance 2009-15 reduced the TIRZ area from 805 +/- acres to 68.3976 acres and removed the West Hills Park Public Improvements (including Contingency and Admin Costs of \$193K) reducing the Project Plan to \$5,823K.

City of Huntsville, Texas
Huntsville Tax Increment Reinvestment Zone, No. 1

As of September 30, 2009

PUBLIC INFRASTRUCTURE PROJECTS

The City of Huntsville did not initiate any public infrastructure projects during the period from October 1, 2008 through September 30, 2009. However, Ravenwood Development initiated construction on public infrastructure projects associated with construction of a Target store. These public improvements will subsequently be dedicated to the City of Huntsville and the cost by the Developers will be reimbursed from TIRZ Funds as those funds are available.

City of Huntsville, Texas
Huntsville Tax Increment Reinvestment Zone, No. 1

As of September 30, 2009

PRIVATE DEVELOPMENT PROJECTS

During the period from October 1, 2008 through September 30, 2009 Ravenwood Development initiated site work for development of an approximately 130,000 sq.ft. Target store. The Grading and Excavating permit was issued May 30, 2008 and the Building permit (site work only) was issued June 3, 2008.

City of Huntsville, Texas
Huntsville Tax Increment Reinvestment Zone, No. 1

As of September 30, 2009

CAPITAL IMPROVEMENT PLAN

BUDGET

ITEMS	ESTIMATED COSTS, \$K
<u>Ravenwood Village</u>	
East/West Public Road	645
Offsite Paving	335
Detention Ponds	1,511
Retaining Walls	389
Public On-Site Water	230
Public On-Site Sanitary Sewer	<u>214</u>
<u>SUBTOTAL</u>	3,324
Engineering/Surveying Fees (15%)	499
<u>TOTAL RAVENWOOD VILLAGE</u>	3,823
 <u>Transportation Projects</u>	 <u>2,000</u>
GRAND TOTAL	5,823

City of Huntsville, Texas

Huntsville Tax Increment Reinvestment Zone, No. 1

As of September 30, 2009

BUDGET VS EXPENDITURES

ITEMS	CURRENT BUDGET, \$	COMMITTED/ EXPENDED TO DATE, \$	REMAINING BALANCE, \$
<u>Ravenwood Village</u>			
East/West Public Road	645,000.00	660,000.00	(15,000.00)
Offsite Paving	335,000.00	356,000.00	(21,000.00)
Detention Ponds	1,511,000.00	726,000.00	785,000.00
Sidewalks and Landscaping	389,000.00	209,000.00	180,000.00
Public On-Site Water	230,000.00	687,000.00	(457,000.00)
Public On-Site Sanitary Sewer	214,000.00	438,000.00	(224,000.00)
<u>SUBTOTAL</u>	3,324,000.00	3,076,000.00	248,000.00
Engineering/Surveying Fees (15%)	499,000.00	444,000.00*	55,000.00
<u>TOTAL RAVENWOOD VILLAGE</u>	3,823,000.00	3,520,000.00	303,000.00
Admin Costs	0.00	28,211.21	(28,211.21)
Transportation Projects	2,000,000.00	0.00	2,000,000.00
GRAND TOTAL	5,823,000.00	3,548,211.21	2,274,788.79

*Adjusted to meet Project Cap of \$3,520,000

City of Huntsville, Texas
Huntsville Tax Increment Reinvestment Zone, No. 1

As of September 30, 2009

TIRZ FUND

	CAPITAL PROJECTS	DEBT SERVICE	TOTAL
Beginning Balance: <i>September 30, 2008</i>	\$ (28,211.21)	\$ 0.00	\$ (28,211.21)
Revenues:	\$ 2,496.26	\$ 0.00	\$ 2,496.26
Expenditures:			
• Administration	\$ 0.00	\$ 0.00	\$ 0.00
• Projects	\$ 0.00	\$ 0.00	\$ 0.00
Ending Balance: <i>September 30, 2009</i>	<u>\$ (25,714.95)</u>	<u>\$ 0.00</u>	<u>\$ (25,714.95)</u>

City of Huntsville, Texas

Huntsville Tax Increment Reinvestment Zone, No. 1

As of September 30, 2009

ANNUAL REPORT

Chapter 311.016 of V.C.T.A. requires the following information as part of the annual report on the status of the TIRZ. Information is contained in detail on the attached financial statements.

1. Amount and source of revenue due to the TIRZ Fund established for the Zone:

\$ 2,496.26 Total Revenue (See 5.B)

2. Amount and purpose of expenditures from the Fund:

\$ 0.00 Total Expenditures

3. Amount of Principal and Interest due on outstanding indebtedness is as follows:

- I. Contributions /Advances from developers—none.
- II. Bonds issued and payment schedule to retire bonds—none.

4. Tax Increment base and current captured appraised value retained by the Zone:

Taxing Jurisdiction	Net Taxable Value 2009	Base Year Value 2004	Captured App. Value 2009
City of Huntsville	\$ 5,368,420	\$ 330,668	\$ 5,037,752
Walker County	\$ 5,368,420	\$ 311,415	\$ 5,057,005

5. Captured appraised value by the municipality and other taxing units, the total amount of the tax increment received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality.

A. Captured appraised value shared by the municipality and other participating taxing jurisdictions to be received in FY 2009 / 2010

Taxing Jurisdiction	Participation Per \$100/Value	Amount of 2009 Increment
City of Huntsville (100%)	\$ 0.4007	\$ 20,186.27
Walker County (50%, NTE \$0.3125)	0.2885	\$ 14,589.46
Total	\$ 0.6892	\$ 34,775.73

B. Amount of tax increment to be received in FY2008/2009 from the municipality and the other taxing jurisdictions based on FY2008 valuations: \$2,496.26. County portion (\$995.12) being held in escrow by County.

C. Other information:

DOCKET NO. 587510

TEXAS ALCOHOLIC BEVERAGE	§	BEFORE THE TEXAS
COMMISSION	§	
And	§	
CITY OF HUNTSVILLE, PROTESTANTS	§	
	§	
V.	§	ALCOHOLIC
	§	
RENEWAL APPLICATION OF	§	
SAM MATHEW	§	
d/b/a SAM'S FAST STOP FOOD MART	§	
CHEVRON, APPLICANT	§	
BQ493124	§	
	§	
WALKER COUNTY, TEXAS	§	BEVERAGE COMMISSION

AGREEMENT AND WAIVER OF HEARING

The Texas Alcoholic Beverage Commission (Commission) is the state agency with the authority to administer and enforce the provisions of the Texas Alcoholic Beverage Code (Code) and the rules adopted to implement the Code (Rules).

SAM MATHEW, Applicant, has filed a renewal application for a Wine and Beer Retailer's Off Premise Permit to be renewed for the premises known as SAM'S FAST STOP FOOD MART CHEVRON, located at 2020 Sam Houston Avenue, Huntsville, Walker County, Texas 77340 and whose mailing address is the same.

My name is Sam Mathew, Officer and Authorized Representative for Applicant. I have authority to enter into and bind the Respondent to the terms of this Settlement Agreement and Waiver of Hearing (Agreement).

The Protestants alleges that Applicant or Applicant's agent, servant or employee engaged in conduct, permitted conduct, and/or failed to prevent or control conduct as follows:

The place or manner in which the Applicant may conduct its business warrants the refusal or cancellation or suspension of the permit(s) based on the general welfare, health, peace, morals and safety of the people and on the public sense of decency, in violation of Section 61.42 (a)(3) of the Texas Alcoholic Beverage Code.

The applicant for a retail dealer's license will conduct business in a manner contrary to law or in a place or manner conducive to a violation of the law, in violation of Section 61.43 (a) (9) of the Texas Alcoholic Beverage Code.

In consideration for the withdrawal of the protest by Petitioner and Protestants, Applicant accepts and will comply with the terms and conditions described below:

RESPONDENT AGREEMENTS

1. Applicant, SAM'S FAST STOP FOOD MART CHEVRON, is subject to and will comply with all regulations and ordinances of the City of Huntsville.
2. Applicant agrees to and will comply with all regulations of the Texas Alcoholic Beverage Commission and all provisions of the Texas Alcoholic Beverage Code.
3. Applicant agrees that any violations of either of the regulations, ordinances and statutes enumerated in section 1 will be subject to prosecution and enforcement by the City of Huntsville and/or any violation of either of the regulations, ordinances and statutes enumerated in sections 1 and 2 will be subject to prosecution and enforcement by the Texas Alcoholic Beverage Commission.

PROTESTANT AGREEMENTS

1. Protestants agree to **WITTHDRAW** this protest.

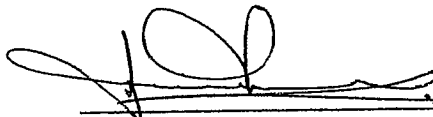
Applicant understands the opportunity for a contested case hearing includes: the right to be heard by an impartial person; the right to be represented by an attorney; and the right to respond to and offer evidence and argument. **Respondent agrees to waive the opportunity for a hearing.**

Applicant agrees to comply with the above terms after the issuance of the original permits and during all subsequent yearly renewals of the permits. Applicant understand that failure to comply with any of the above terms is grounds, after notice and hearing pursuant to the Texas Administrative Procedures Act, for denial, cancellation, or suspension of up to sixty days of its permits. Applicant understand and agree that the terms in Paragraphs 1-3 above, are not state or locally mandated requirements, but that Applicant freely accept such limitations on their privilege to exercise their alcoholic beverage permits as consideration for Petitioner's and Protestant's withdrawal of their protest to the issuance of the new permits.

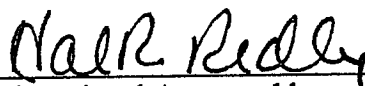
Applicant declares his understanding of the terms of this **AGREEMENT** and accepts the terms. Applicant agrees that the above terms become final and enforceable on the date the Order is signed.

AGREED TO AND SIGNED by Sam Mathew, acting on behalf of the Respondent, on this _____ day of April 2010.

**SAM MATHEW
APPLICANT**



Sam Mathew, Officer and Authorized
Representative signing on behalf of
APPLICANT



Reviewed and Approved by
Hal R. Ridley
ATTORNEY FOR APPLICANT

Mayor J. Turner
City of Huntsville
PROTESTANT

Reviewed and Approved by
Leonard V. Schneider
ATTORNEY FOR PROTESTANT

ACCEPTED by the Texas Alcoholic Beverage Commission on this _____ day of April 2010.

Sandra K. Patton
ATTORNEY FOR THE PETITIONER
Texas Alcoholic Beverage Commission
Legal Services Division

Nominees for Expo. Center/Indoor Arena Market Feasibility Study

Joe Boaz

Pat Camfield

Rowe Creager

Rusty Davis

Dave DeShaw

Frank Fair

Karen Fletcher

Dr. Dana Gibson

Kevin Green

Sidney Grisham

Sandra Hanscom

Dr. Jaimie Hebert

Blaine Hinds

Don Johnson

Dick Lindeman

Dennis Reed

Byron Sandel

Barry Shoemake

Micah Slaughter

Sonny Sikes

David Townsend

Richard Watkins

Ex-Officio members:

Mayor J. Turner

Charles Forbus

Lanny Ray

Dalene Zender

(Original format with changes made)

Pursuant to the directive of Council to the HOT Board to recommend the structure make up and initial membership of a committee to study and report on the feasibility of an expo center / indoor arena convention center in Huntsville, Texas, the following is presented:

Indoor Arena/Expo Center Feasibility Committee

The Feasibility Committee shall initially be composed of 25-32 members organized into subcommittees and an Executive Committee made up as specified below.

~~The Current members of the Hotel Occupancy Tax Board, along with the chair of each Subcommittee shall make up the executive committee. Other members may be added to the Executive Committee from partnering entities as the need becomes apparent. The members of the executive committee shall have voting powers on any matter upon which requires a vote.~~

The committee shall organize into subcommittees as decided by the committee to focus appropriately on the various aspects of the feasibility, such as Indoor Arena Marketing Research, Expo Center Marketing Research, Cost/Funding, and Site and Layout. ~~The Executive Committee may form additional subcommittees as needed from among the current committee members or seek the appointment of additional members as needed. The Executive Committee or Chair may adjust or move individual members among subcommittees as needed. The members of each subcommittee~~ the committee shall select their chairperson.

The purpose and mission of the Committee is to investigate and determine the feasibility of the construction and maintenance of an Indoor Arena and / or Expo Center within the city limits of Huntsville and report the findings to the Citizens of Huntsville via the City Council. Areas of emphasis in the report shall include, but are not limited to: needs and usages of the facility, size and scope of facilities, site location, costs of construction and operations, and sources of funding.

The Committee's charge includes looking at a range of possibilities including making better use of existing facilities, changes and additions to existing facilities, and possible new facilities. For each option considered, determine potential customers and usage, revenue expected to be generated, facilities cost, and operations and maintenance costs.

The Committee shall proceed with the understanding that the City intends to commit primarily Hotel Occupancy Tax Funds, and not initially plan for the use of any significant General Funds (beyond like-kind contributions).

The Committee shall report to Council through the HOT Board pursuant to Section 42-65 of Huntsville Municipal Code and Texas Tax Code Chapter 351, with an initial in-progress report to be made within 90 days of the initial Committee meeting.

The initial budget for the feasibility study is approximately \$30,000 subject to adjustment by Council.

(Final format for approval)

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OFFICE OF THE COUNTY JUDGE

DANNY PIERCE
Walker County Judge
(936) 436-4910
(936) 436-4914 FAX

Walker County Courthouse
1100 University Avenue
Huntsville, Texas 77340

April 29, 2010

Mayor J. Turner
1212 Avenue M
Huntsville, Texas 77340

Dear Mayor Turner:

As approved during the Walker County Commissioners' Court meeting on April 26, 2010, it was unanimously approved for Walker County to enter into an agreement with Mr. Ken Davis. The deadline given will be extended to give ample time to include the additional information but not to extend beyond either entities budget process. It is our understanding that the action taken by Commissioners' Court is only valid as long as the Huntsville City Council approves the same agreement; it is also our understanding that if Mr. Davis's fee increases due to the additional requested objectives then the Walker County Commissioners' Court will bring the agreement back before Commissioners' Court for approval.

The above mentioned agenda item was amended to include the following objectives:

- (1) Include any short term and long range plans/goals by either entity
- (2) Include conditions (starting point information and now information) ----- Ex. City was a volunteer fire department with x full time fire fighters, x volunteer fire fighters, x equipment etc; at the time there were x volunteer fire departments serving areas outside the corporate limits, with x equipment and trained personnel of x.???? What now?
- (3) Include description of the statutory requirements of each entity
- (4) Include information as to the incremental costs to City of fighting fires outside the corporate limits. What operating costs or equipment replacement would 'go away' in the City budget if the City did not fight fires outside the corporate limits of the City? What additional costs would be added to the County budget?
- (5) Include out of corporate limits volunteer fire departments mutual aid responses inside corporate limits
- (6) Include costs paid by volunteer fire departments outside the corporate limits that are not financed by County tax dollars
- (7) In fire response information, a distinction between primary services and mutual aid calls outside the corporate limits would be informative, as well as location of calls within ESD's, and equipment present at a fire scene
- (8) Include possible effects of discussed additional ESD's and plans of out of corporate limits volunteer fire departments have on future needs and future plans City has in expanding the existing budget.
- (9) Possibly include description of any standard procedures now used for City providing services outside the corporate limits.

If you have any questions concerning the additional requested information please give me a call.

Respectfully,



Danny Pierce
County Judge
Walker County

DP/sp

cc: Ken Davis

STATE OF TEXAS	§	INTERLOCAL AGREEMENT
COUNTY OF WALKER	§	FOR
CITY OF HUNTSVILLE	§	PUBLIC SAFETY SERVICES

This Agreement is made by the CITY OF HUNTSVILLE, TEXAS, a home rule municipal corporation (hereinafter called "City"), and the COUNTY OF WALKER, TEXAS, a body politic and political subdivision of the State of Texas (hereinafter called "County").

WHEREAS, City and County recognize their mutual obligation to provide for the health, safety and welfare of the public of Walker County, Texas, and for several years the City and County have jointly participated in the expense of furnishing fire fighting, fire protection and emergency medical service to the public within Walker County, Texas;

WHEREAS, the City and County recognize their mutual obligation to provide for the health, safety and welfare of the public by providing public safety services;

WHEREAS, City and County previously entered into contracts for fire protection services in 1995 and as amended in 2003, and for emergency medical service in 2003 and a renewed, combined fire safety/EMS/fuel agreement in 2005; and

WHEREAS, City and County desire to contract under the provisions of Texas Government Code Chapter 791 (Interlocal Contracts) for public safety services;

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, City and County agree as follows:

I.

FIREFIGHTING AND FIRE PROTECTION SERVICES

A. Provision of Fire Services

1. City will provide fire equipment and fire protection services, under the direction of City, to respond to fire calls within Walker County outside the Huntsville city limits.
2. City will respond to all such fire calls within Walker County whenever the person turning in the alarm for such fire will give accurate information concerning the location of the fire and his or her name or the location from where the person makes the call, or the dispatcher provides sufficient information and dispatches the fire equipment to the location of the fire.

B. Payment for Fire Services

County will pay City an annual sum of Two Hundred Forty Six Thousand Four Hundred Eighty-seven Dollars (\$246,487). Said sum shall be paid in twelve (12) equal monthly installments with the first payment to be made October 1, 2008, (or as soon after execution of this Agreement as reasonably practical) and a like payment to be paid in the first day of each succeeding month. No invoices or other prerequisite shall be required for payment.

C. Control, Assistance and Reporting

1. The funds for fire operations are part of City's accounting system and will be under the custody and control of City. City will provide such information concerning said accounts/funds as requested by County.

NOV 14 2008

FINANCE

2. City and County recognize the cost of providing fire services within the City of Huntsville and Walker County falls disproportionately upon residential property owners with Huntsville and Walker County because of the large amount of tax-exempt property within said jurisdictions. County and its Commissioners Court will cooperate and assist City and its Council in: (a) seeking additional funding for fire operations and/or equipment from or through the State of Texas, Texas Department of Criminal Justice and/or Sam Houston State University, and (b) working with Texas Department of Criminal Justice to provide training grounds for county-wide volunteer firefighters.

3. City will provide County a monthly report showing each fire call made during the month, whether said call was made inside or outside the corporate limits of the City of Huntsville and showing the date, time, location, description or type of fire, equipment and manpower utilized and miles traveled to and from the fire.

D. Property Insurance

City will provide insurance for fire equipment in which title is held by City or which was acquired under C.2. above or otherwise by state or federal grant and in which title is held by County.

E. Governmental Service

As provided in Texas Local Government Code section 352.004, the acts of any person or persons while fighting fire, traveling to or from fires or in any manner furnishing fire protection to the citizens of a county outside the city limits of any city will be considered as the acts or agents of the county in all respects, notwithstanding such person or persons may be regular employees or firefighters of City (see also Texas Government Code section 791.006).

II.

EMERGENCY MEDICAL SERVICES

A. County will provide or cause to be provided emergency medical services (sometimes hereafter referred to as "EMS") within the Huntsville city limits. County will supervise and govern said emergency medical services.

B. City will provide workspace for office personnel, vehicle bay space for units deployed within the Huntsville city limits and bunk space for on-duty EMS crews for said units. City will be responsible for insurance and maintenance of these facilities.

C. EMS personnel are County employees except when County provides otherwise. EMS personnel shall not be City employees. County will continue to fund the insurance of one retired employee as agreed under the 2003 Interlocal Agreement for Emergency Medical Service.

III.

FUEL

City will allow County's EMS, sheriff and constables vehicles to refuel at City at City's at actual cost. City will periodically invoice County for fuel obtained by County from City under this Agreement, and County will pay said invoices within thirty (30) days therefrom.

IV.

TERM OF AGREEMENT

This Agreement shall take effect October 1, 2008, and extend until September 30, 2009.

V.

MISCELLANEOUS

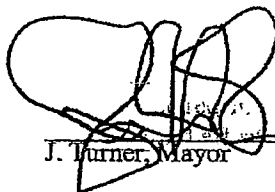
A. Should any portion of this Agreement be declared invalid for any reason, the remaining portions thereof shall not be affected and shall remain in full force and effect.

B. This Agreement constitutes the entire agreement between the parties to this Agreement. No party shall be bound by any communications between them on the subject matter of this Agreement unless the communication is (a) in writing, (b) bears a date contemporaneous with or subsequent to the date of this Agreement, and (c) is agreed to by all parties to this Agreement.

C. The parties agree that the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement in Huntsville, Texas, on this the 14th day of November, 2008.

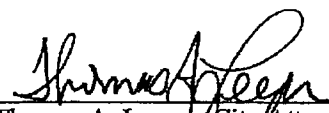
CITY OF HUNTSVILLE


J. Turner, Mayor

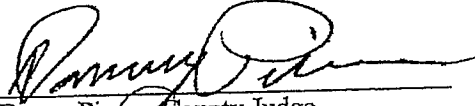
ATTEST:


Stephanie Brim, City Secretary

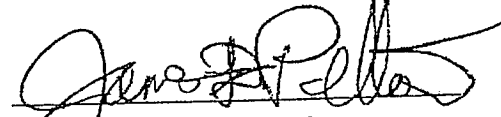
APPROVED AS TO FORM:


Thomas A. Leeper, City Attorney


COMMISSIONERS' COURT OF
WALKER COUNTY


Danny Pierce, County Judge

ATTEST:


James Patton, County Clerk

APPROVED AS TO FORM:


David P. Weeks, Criminal District Attorney

ADDENDUM

to the

INTERLOCAL AGREEMENT FOR

PUBLIC SAFETY SERVICES BETWEEN THE CITY OF HUNTSVILLE, TEXAS

AND COUNTY OF WALKER, TEXAS DATED NOVEMBER 14, 2008

This Addendum is made this 5th day of January 2010, and is incorporated into and will be deemed to amend and supplement the Interlocal Agreement for Public Safety Services ("Agreement") between the City of Huntsville, Texas ("City") and the County of Walker, Texas ("County") that was entered into on November 14, 2008. This Addendum shall be attached to the Agreement.

The City and County agree to the following:

Section IV, Terms of the Agreement is amended as follows:

The term of this Agreement shall take effect October 1, 2009 and extend to September 30, 2010 and shall be automatically renewed each year for a one-year period, provided that the agreement may be terminated with thirty (30) days written notice by either party.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum in multiple copies, each of equal dignity, on this 5th day of January 2010.

1147

CITY OF HUNTSVILLE, TEXAS

J. Turner, Mayor

ATTEST:

Lee Woodward, City Secretary

Approved as to Form:

Leonard Schneider, City Attorney

COMMISSIONERS' COURT OF
WALKER COUNTY

Danny Pierce, County Judge

ATTEST:

James D. Patton
James Patton, County Clerk

Approved as to Form:

David P. Weeks, Criminal District Attorney



CITY OF Huntsville

Incorporated in 1845 under the Republic of Texas

September 26, 2008

Mr. Jay Williams
Ravenwood Village, Ltd.
c/o Property Commerce, Inc.
1100 Brittmoore Park Drive, Suite 100
Houston, TX 77041

Re: Ownership of Entities

Dear Mr. Williams:

Recent citizens' comments and a letter to the editor published in *The Huntsville Item* express concern whether conflicts of interest might exist in the Ravenwood Village project in Huntsville if someone engaged in the decision process of the City of Huntsville has any ownership interest in the development.

Please provide copies of appropriate business records which identify the partners (general and limited) of Ravenwood Village, Ltd., and the records which identify partners, shareholders, members, etc. of any entity which is a partner in Ravenwood Village, Ltd. This information will be most helpful in addressing the concerns.

Thank you for your assistance.

Respectfully,

Thomas A. Leeper
City Attorney

TAL/sb

cc: Mayor and City Council
Bill Baine, City Manager
Stephanie Brim, City Secretary

1212 Avenue M • Huntsville, TX 77340-4608 • 936.291.5400 • 936.291.5409 fax • www.huntsvilletx.gov

Our vision for the City of Huntsville is a community that is beautiful, historic, culturally diverse, affordable, safe, and well-planned with great opportunity for our citizens.

11000 BRITTMORE PARK DRIVE, SUITE 100
HOUSTON, TEXAS 77041
281.668.3400
FAX: 281.668.3450



JWILLIAMS@PROPERTYCOMMERCE.COM
DIRECT DIAL: 281.668.3434

"SINCE 1976"

October 16, 2008

Thomas A. Leeper
City Attorney
City of Huntsville
1212 Avenue M
Huntsville, Texas 77340

Dear Mr. Leeper:

In response to your letter dated September 25, 2008, we cannot provide the information requested; however, no current or former public official or city employee is involved in the ownership of Ravenwood Village, Ltd. In fact, no citizen of Huntsville or Walker County has any ownership in Ravenwood Village, Ltd. The allegations from the Huntsville Item are baseless and if they have specific conflicts of interest we can refute these individually, but I am sure they do not.

Sincerely,

A handwritten signature in black ink, appearing to be "Jay Williams", with a long horizontal line extending to the right.

Jay Williams

THE STATE OF TEXAS m
COUNTY OF WALKER m

INTERLOCAL AGREEMENT

I. PARTIES

A. Address

THIS INTERLOCAL AGREEMENT ("Agreement") is made by and between the CITY OF HUNTSVILLE, TEXAS ("City"), a municipal corporation and home-rule city of the State of Texas, principally situated in WALKER COUNTY, acting by and through its governing body, the City Council; the COUNTY OF WALKER, acting by and through the WALKER COUNTY COMMISSIONER'S COURT, located at 1100 University Avenue, Huntsville, Texas 77340. This Agreement is made pursuant to Chapter 791 of the Texas Government Code and Section 311.013 of the Texas Tax Code.

The initial addresses of the parties, which one party may change by giving written notice of its changed address to the other parties, are as follows:

City

City Manager
1212 Avenue M
Huntsville, Texas 77340

Walker County

County Judge
Walker County Court House
1100 University Avenue
Huntsville, Texas 77340

B. Index

The City and WALKER COUNTY hereby agree to the terms and conditions of this Agreement. This Agreement consists of the following sections:

<u>Section</u>	<u>Description</u>	<u>Page</u>
I.	Parties	1
II.	Definitions	5
III.	Background	7
IV.	Obligations of WALKER COUNTY	7
V.	Obligations of City and Zone	9
VI.	Term and Termination	12
VII.	Miscellaneous	12
Exhibit "A"	CITY OF HUNTSVILLE Ordinance No. 2004-16.	
Exhibit "B"	Project Plan and Reinvestment zone financing plan	

C. Parts Incorporated

All of the above described sections and documents are hereby incorporated into this Agreement by this reference for all purposes.

IN WITNESS HEREOF, the City and WALKER COUNTY have made and executed this Agreement in multiple copies, each of which is an original.

CITY OF HUNTSVILLE

Walker County

Kenneth P. Peltus 9/22/04 Dan R. Peltus 9-22-04
 City Manager Date County Judge Date

ATTEST/SEAL:

Laura Hunter 9/29/04 D. P. Peltus
 City Secretary Date County Attorney

COUNTERSIGNED:

Winston Duke 9/29/04
 City Controller Date

APPROVED:

Alan S. Bell 9/22/04
 Director Date

Department of Planning & Development

APPROVED

Thomas J. Peltus 10/01/04
 City Attorney Date
 L.D. No 12074720

II. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set out below:

"Administrative Costs" means the costs of organizing the Zone, the costs of operating the zone and the imputed administrative costs associated with the Zone, including reasonable charges, but not to exceed 5% of the tax increments generated by the reinvestment zone per year, for the time spent by employees of the City in connection with the implementation of the Project Plan.

"Agreement" means this agreement between the City, WALKER COUNTY and the Zone.

"Agreement Term" is defined in Section VI.

"Captured Appraised Value" means the captured appraised value of the Zone as defined by Chapter 311, Texas Tax Code.

"City" is defined in Section I of this Agreement and includes its successors and assigns.

"Countersignature Date" means that date shown as the date countersigned by the City Controller on the signature page of this Agreement.

"WALKER COUNTY" is defined in Section I of this Agreement and includes its successors and assigns.

"WALKER COUNTY Tax Increment Participation" as defined in Section IV of this Agreement.

CONFIDENTIAL

"Zone" means Reinvestment zone number one, City of Huntsville, Texas created by the City by Ordinance No. 2004-16, attached as Exhibit "A", and includes its successors and assigns.

"Project Plan" means the project plan and reinvestment zone financing plan for the Zone adopted by the board of directors of the Zone and approved by the City Council of the City.

"Tax Increment Fund" means the tax increment fund created by the City in the City Treasury for the Zone.

Other terms used herein shall have the meanings specified herein or ascribed to them in Chapter 311, Texas Tax Code.

III. BACKGROUND

By Ordinance No. 2004-16, the City created the Zone for the purpose of development and redevelopment. The City will contribute one hundred percent (100%) of the City tax increments produced in the Zone to the Tax Increment Fund. WALKER COUNTY desires to participate in the Zone in consideration for the agreements set forth below.

IV. OBLIGATIONS OF WALKER COUNTY

A. Tax Increment Participation WALKER COUNTY

For and in consideration of the agreements of the parties set forth herein, and subject to the remaining subsections of this section, WALKER COUNTY agrees to participate in the Zone by contributing 50% of its ad valorem tax rate up to a maximum of \$ 0.3125 per hundred dollars of the annually calculated tax valuation

produced in the Zone attributable to WALKER COUNTY to the Tax Increment Fund during the term of this Agreement.

B. Tax Increment Limitation

Subject to the limitations set out in this Agreement, WALKER COUNTY agrees to pay the WALKER COUNTY Tax Increment Participation to the Tax Increment Fund during the term of this Agreement.

WALKER COUNTY shall not be required to pay tax increment into the Tax Increment Fund after three (3) years from the date the Zone has been created unless:

1. Bonds have been issued from the Zone under section 311.015 of the Texas Tax Code to finance a portion of the project;
2. The City has acquired property in the Zone pursuant to the Project Plan; or
3. Construction of a project or projects pursuant to the Project Plan has begun in the Zone.

WALKER COUNTY's Tax Increment Participation shall be based on and limited to taxes actually collected on the Captured Appraised Value in the Zone. WALKER COUNTY shall not be obligated to pay the WALKER COUNTY Tax Increment Participation from other WALKER COUNTY taxes or revenues. The obligation to pay the WALKER COUNTY Tax Increment Participation shall accrue as taxes are collected by WALKER COUNTY on the Captured Appraised Value, and payment shall be due no later than the 90th day after the delinquency date, and in no instance later than May 1st of each calendar year. The City and the Zone agree that any interest or penalties collected by WALKER COUNTY with respect to taxes included in the WALKER COUNTY Tax Increment Participation shall be retained by WALKER COUNTY.

C. Use of WALKER COUNTY Tax Increment Participation Funds

WALKER COUNTY shall have the exclusive right to utilize WALKER COUNTY tax revenues which are not paid into the fund for any lawful purpose.

D. Expansion of Zone

The obligation of WALKER COUNTY to participate in the Zone is limited to the area described in Ordinance 2004-16; WALKER COUNTY's participation shall not extend to the tax increment on any additional property added to the Zone by the City unless WALKER COUNTY approves the expansion and participation.

E. Board of Directors.

Notwithstanding anything to the contrary in CITY OF HUNTSVILLE Ordinance No. 2004-16, which created the Zone, WALKER COUNTY shall have the unequivocal right to appoint to and maintain a minimum of three (3) member(s) and a maximum of the same number as appointed by the City to the Zone Board of Directors. Failure of WALKER COUNTY to appoint a person to the Board of Directors of the Zone shall not be deemed a waiver of WALKER COUNTY's right to amend an appointment by a later date.

V. OBLIGATIONS OF CITY AND ZONE

A. Project Plan

Mutual approval by both the City and County shall be required prior to amendment of the Project Plan. The Zone Board is only an advisory board to the City and therefore by virtue of this agreement is also an advisory board to the County Commission as concerns matters of the Zone.

VI. TERM AND TERMINATION

A. Agreement Term

This Agreement shall become effective as of the date of August 30, 2004, and shall remain in effect until December 31, 2024. The first payment of increment taxes by WALKER COUNTY under this Agreement shall be for those taxes levied by WALKER COUNTY in the calendar year 2005 and the last payment by WALKER COUNTY under this Agreement is for those taxes levied by WALKER COUNTY in the calendar year 2024. However in the event that the requirements of Section 311.013 of the Texas Tax Code have not been met, this agreement will terminate after three years from the date the zone was created.

B. Disposition of Tax Increments

Upon termination of the Zone, the City and the Zone shall pay to WALKER COUNTY all monies remaining in the Tax Increment Fund that are attributable to the WALKER COUNTY Tax Increment Participation.

VII. MISCELLANEOUS

A. Severability

In the event any term, covenant or condition herein contained shall be held to be invalid by any court of competent jurisdiction, such invalidity shall not affect any other term, covenant or condition herein contained, provided that such invalidity does not materially prejudice either WALKER COUNTY, the City, or the Zone in their respective rights and obligations contained in the valid terms, covenants or conditions hereof.

In the event any term, covenant or condition shall be held invalid and affects in any manner the limitations of WALKER COUNTY contributions or participation, then this Agreement shall be cured or modified as to WALKER COUNTY, and

WALKER COUNTY shall have the liability for any incremental or other payments as may otherwise be provided for in the cured or modified Agreement.

B. Entire Agreement

This Agreement merges the prior negotiations and understanding of the parties hereto and embodies the entire agreement of the parties. There are no other agreements, assurances, conditions, covenants (express or implied) or other terms with respect to the covenants, whether written or verbal, antecedent or contemporaneous, with the execution hereof.

C. Written Amendment

Unless otherwise provided herein, this Agreement may be amended only by written instrument duly approved and executed on behalf of each party.

D. Notices

All notices required or permitted hereunder shall be in writing and shall be deemed delivered when actually received or, if earlier, on the third (3rd) day following deposit in a United States Postal Service post office or receptacle with proper postage affixed (certified mail, return receipt requested) addressed to the respective other party at the address prescribed in Section I of this Agreement or at such other address as the receiving party may have theretofore prescribed by notice to the sending party.

E. Non-Waiver

Failure of any party hereto to insist on the strict performance of any of the agreements herein or to exercise any rights or remedies accruing hereunder upon default or failure of performance shall not be considered a waiver of the right to insist on, and to enforce by any appropriate remedy, strict compliance with any other obligation hereunder or to exercise any right or remedy occurring as a result of any future default or failure of performance.

F. Assignment

No party shall assign this Agreement at law or otherwise without the prior written consent of the other parties. No party shall delegate any portion of its performance under this Agreement without the prior written consent of the other parties.

G. Successors

This Agreement shall bind and benefit the parties and their legal successors. This Agreement does not create any personal liability on the part of any officer or agent of the City or of any trustee, officer, agent or employee of WALKER COUNTY.

H. No Waiver of Immunity

No party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, officers, employees, students, and agents as a result of its execution of this Agreement and performance of the covenants contained herein.

EXHIBIT A—CREATION ORDINANCE

ORDINANCE NO. 2004-16

AN ORDINANCE DESIGNATING A CONTIGUOUS GEOGRAPHIC AREA WITHIN THE CITY OF HUNTSVILLE AS TAX INCREMENT REINVESTMENT ZONE NUMBER ONE, CITY OF HUNTSVILLE, TEXAS, FOR TAX INCREMENT FINANCING PURPOSES PURSUANT TO CHAPTER 311 OF THE TEXAS TAX CODE; CREATING A BOARD OF DIRECTORS FOR SUCH ZONE; CONTAINING FINDINGS AND PROVISIONS RELATED TO THE FOREGOING SUBJECT; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, pursuant to Chapter 311 of the Texas Tax Code, the City may designate a contiguous geographic area within the City as a reinvestment zone if the area satisfies the requirements of certain sections of Chapter 311 of the Texas Tax Code; and

WHEREAS, the City has prepared a preliminary reinvestment zone financing plan, which provides that City of Huntsville (City) *ad valorem* taxes are to be deposited into the tax increment fund, and that taxes of other taxing units may be utilized in the financing of the proposed zone; and

WHEREAS, the City provided written notice of the public hearing on the creation of the proposed zone, complying with the requirements of Chapter 311, Texas Tax Code, to the governing body of all taxing units levying taxes on property in the proposed zone; and

WHEREAS, a notice of the November 11, 2003, public hearing on the notice for intent of the proposed zone was published on November 2, 2003, in the Huntsville Item, a newspaper of general circulation in the City; and

WHEREAS, at the public hearing on November 11, 2003, interested persons were allowed to speak for or against the creation of the proposed zone, its boundaries, or the concept of tax increment financing; and owners of property in the proposed zone were given a reasonable opportunity to protest the inclusion of their property in the proposed zone; and

WHEREAS, evidence was received and presented at the public hearing in favor of the creation of the proposed zone under the provisions of Chapter 311, Texas Tax Code; and

WHEREAS, no owner of real property in the proposed zone protested the inclusion of their property in the proposed zone; and

WHEREAS, the City has provided all information, and made all presentations, given all notices and done all other things required by Chapter 311, Texas Tax Code, or other law as a condition to the creation of the proposed zone; and

WHEREAS, the total appraised value of taxable real property in the proposed zone and all other tax increment reinvestment zones previously created by the City is approximately \$7,000,000; and

WHEREAS, the total appraised value of taxable real property taxable by Walker County, in which the proposed zone is located, is approximately \$7,000,000; and

WHEREAS, the total appraised value of real property taxable by the Huntsville Independent School District, in which the proposed zone is located, is approximately \$7,000,000; and

WHEREAS, the total appraised value of real property taxable by the Walker County Hospital District, in which the proposed zone is located, is approximately \$7,000,000; and

WHEREAS, the total area within the proposed zone is approximately 578 acres, excluding property that is publicly owned; NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS:

Section 1. Findings.

(a) That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.

(b) That the City Council further finds and declares that the proposed improvements in the zone will significantly enhance the value of all the taxable real property in the proposed zone and will be of general benefit to the City.

(c) That the City Council further finds and declares that the proposed zone meets the criteria and requirements of Section 311.005 of the Texas Tax Code because the proposed zone contains substantial areas that are predominantly open and underdeveloped, and lack public water distribution, wastewater collection, street and storm drainage facilities which conditions substantially impair and arrest the sound growth of the City.

(d) That the City Council, pursuant to the requirements of Chapter 311, Texas Tax Code, further finds and declares:

(1) That the proposed zone is a contiguous geographic area located wholly within the corporate limits of the City of Huntsville;

(2) That the total appraised value of taxable real property in the proposed zone does not exceed fifteen percent of the total appraised value of taxable real property in the City and in the industrial districts created by the City;

(3) That the proposed zone does not contain more than fifteen percent of the total appraised value of real property taxable by Walker County, the Huntsville Independent School District, or the Walker County Hospital District;

(4) That 10 percent or less of the property in the proposed reinvestment zone, excluding property dedicated to public use, is used for residential purposes, which is defined in Chapter 311, Texas Tax Code as any property occupied by a house which has less than five living units; and

(5) That the development or redevelopment of the property in the proposed zone will not occur solely through private investment in the reasonably foreseeable future.

Section 2. Designation of the Zone

That the City, acting under the provisions of Chapter 311, Texas Tax Code, including Section 311.005(a), does hereby designate as a reinvestment zone, and create and designate a reinvestment zone over, the area described in Exhibit "A" and depicted in the map attached hereto as Exhibit "B" to promote the development and redevelopment of the area. The reinvestment zone shall hereafter be named for identification as Tax Increment Reinvestment Zone Number One, City of Huntsville, Texas, (the "Zone"). The City Council specifically declares that the Zone is designated pursuant to Section 311.005(a) and (2) of the Texas Tax Code.

Section 3. Board of Directors

That there is hereby created a Board of Directors for the Zone, which shall consist of seven (7) members. Positions One through Three on the Board of Directors shall be reserved for the City. Positions Four through Six shall be reserved for Walker County. Position Seven shall be reserved for Huntsville Independent School District (HISD). Any taxing unit that appoints a director shall be assigned a Board position number in the order the City receives the appointment. Failure of a taxing unit to appoint a director by September 15, 2004, shall be deemed a waiver of the right to appoint a director, and the City shall be entitled to appoint persons to the position, which shall be filled as provided below. If more than two taxing units levying taxes within the Zone appoint a director, the

number of directors on the Board of Directors shall be increased by one for each taxing unit above two that appoints a director to the board; provided, if more than four taxing units levying taxes within the Zone appoint a director, the number of directors on the Board of Directors shall be increased by two for each taxing unit above four that appoints a director to the board, provided, further, that the maximum number of directors shall not exceed fifteen (15). The City shall be entitled to appoint a person to one position of each of the two positions created as a result of more than four taxing units appointing directors, which position shall be filled as provided below.

The City Council shall place for nomination and approve, the directors to Positions One through Three of the Board of Directors and any position unfilled on January 15, 2005, and any City position created by the appointment of a director by the increase of more than four taxing units levying taxes within the Zone, subject to the consent and approval of the City Council.

The directors appointed to odd-numbered positions shall be appointed for two year terms, beginning on the effective date of this Ordinance, while the directors appointed to even-numbered positions shall be appointed to a one year term, beginning on the effective date of this Ordinance. All subsequent appointments shall be for two-year terms. The member of the Board of Directors appointed to Position Three is hereby designated to serve as the chair of the Board of Directors for a one-year term beginning on the effective date of this Ordinance. Thereafter the City Council shall annually nominate and appoint, subject to City Council approval, a member to serve as chair for a term of one year beginning on January 1 of the following year. The City Council authorizes the Board of Directors to elect from its members a vice-chairman and such other officers as the Board of Directors sees fit.

The Board of Directors shall make recommendations to the City Council concerning the administration of the Zone. The Board of Directors shall prepare or cause to be prepared and adopt a project plan and a reinvestment zone financing plan for the Zone as described in Section 311.011, Texas Tax Code, and shall submit such plans to the City Council for its approval. The City hereby delegates to the Board of Directors all powers necessary to prepare and implement the project plan and reinvestment zone financing plan, subject to approval by the City Council, including the power to employ any consultants or enter into any reimbursement agreements payable solely from the Tax Increment Fund established pursuant to Section 7 of this Ordinance, subject to the approval of the City Council, that may be reasonably necessary or convenient to assist the Board of Directors in the preparation of the project plan and reinvestment zone financing plan and in the issuance of tax increment obligations.

Section 4. Duration of the Zone

That the Zone shall take effect on January 1, 2004, for the deposit of tax increments into the Tax Increment Fund established pursuant to Section 7 of this Ordinance, and termination of the operation of the Zone shall occur on December 31, 2023, or at an earlier time designated by subsequent ordinance, or at such time, subsequent to the issuance of tax increment bonds, if any, that all project costs, tax increment bonds, notes and other obligations of the Zone, and the interest thereon, have been paid in full.

Section 5. Tax Increment Base

That the Tax Increment Base of the City or any other taxing unit participating in the Zone is the total appraised value of all real property taxable by the City or other taxing units participating in the Zone and located in the Zone, determined as of January 1, 2004, the year in which the Zone was designated as a reinvestment zone (the "Tax Increment Base").

Section 6. Tax Increment Fund

That there is hereby created and established a Tax Increment Fund for the Zone which may be divided into subaccounts as authorized by affirmative action of the City Council. All Tax Increments, as defined below, shall be deposited in the Tax Increment Fund. The Tax Increment Fund and any subaccount shall be maintained at the depository bank of the City and shall be secured in the manner prescribed by law for funds of Texas cities. The annual Tax Increment shall equal the property taxes levied by the City and any other taxing unit participating in the Zone for that year on the captured appraised value, as defined by Chapter 311 of the Texas Tax Code, of real property located in Zone that is taxable by the City or any other taxing unit participating in the Zone, less any amounts that are to be allocated from the Tax Increment pursuant to Chapter 311 of the Texas Tax Code. All revenues from the sale of any tax increment bonds, notes or other obligations hereafter issued for the benefit of the Zone by the City, if any; revenues from the sale of property acquired as part of the project plan and reinvestment zone financing plan, if any; and other revenues to be used in the Zone shall be deposited into the Tax Increment Fund. Prior to the termination of the Zone, money shall be disbursed from the Tax Increment Fund only to pay project costs, as defined by the Texas Tax Code, for the Zone, to satisfy the claims of holders of tax increment bonds or notes issued

for the Zone, or to pay obligations incurred pursuant to agreements entered into to implement the project plan and reinvestment zone financing plan and achieve their purpose pursuant to Section 311.010(b) of the Texas Tax Code.

Section 7. Severability

If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining provisions of this Ordinance or their application to other persons or set of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or regulations connected herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any portion hereof, and all provisions of this Ordinance are declared severable for that purpose.

Section-8. Open Meetings

It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the Time required by law preceding its meeting, as required by the Open Meetings Law, Texas Government Code, ch. 551, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter hereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

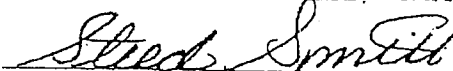
Section 9. Notices

The contents of the notice of the public hearing, which hearing was held before the City Council on November 11, 2003, and the publication of said notice, are hereby ratified, and confirmed.

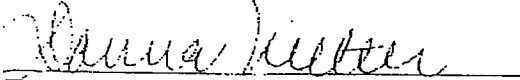
PASSED AND ADOPTED this 3rd day of August 2004.

APPROVED this 3rd day of August 2004.

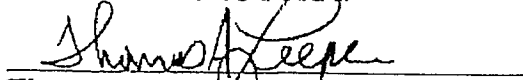
THE CITY OF HUNTSVILLE, TEXAS


Steed Smith, Mayor Pro Tem

ATTEST:


Danna Welter, City Secretary

APPROVED AS TO FORM:


Thomas A. Leeper, City Attorney

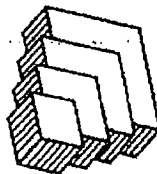
Preliminary

PROJECT PLAN

August 2004

Tax Increment Reinvestment Zone No. 1

City of Huntsville, Texas



SCHRADER & CLINE, LLC

George R. Schrader

Larry D. Cline

4800 Broadway, Ste A Addison, TX 75001
972-661-1973 schcli@swbell.net

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

AUGUST 2004

The City of Huntsville, Texas proposes to establish a Tax Increment Reinvestment Zone ("TIRZ") for the purpose of dedicating the increase in tax revenue generated within the TIRZ to provide funds for public infrastructure to encourage accelerated development and redevelopment in the IH-45/SH 30 area of the City. The TIRZ consists of approximately 805 acres and is more fully described in *Project Plan Exhibit: A*.

The City is creating this TIRZ to encourage accelerated development and redevelopment in the IH-45/SH 30 area of the City that has remained generally undeveloped and would benefit from the proposed public infrastructure improvements. It is expected that the TIRZ will exist for twenty (20) years or the date when all project costs are paid, whichever comes first.

As set forth in Section 311.011 of the Tax Increment Financing Act of the Tax Code, the Project Plan for Tax Increment Reinvestment Zone No. 1, Huntsville, Texas must and does include the following elements:

1. A map showing existing uses and conditions of real property in the TIRZ and a map showing proposed improvements to and proposed use of the property.
 - The boundaries of the TIRZ are shown on the map labeled *Project Plan Exhibit: B*;
 - *Project Plan Exhibit: C* shows existing land use within the TIRZ. Currently, the area is generally undeveloped. The area contains less than ten percent residential.
 - *Project Plan Exhibit: D* identifies public improvements being proposed for the TIRZ;
 - A listing of those public improvements is shown in *Project Plan Exhibit: E*;
 - *Project Plan Exhibit: F* shows anticipated Future Land Use within the TIRZ.

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1**2. Proposed changes of zoning ordinances, the master plan of the municipality, building codes, and other municipal ordinances.**

- Any changes to codes, ordinances, or master plan as a result of the creation of the TIRZ will be made through the standard process and procedures of the City.

3. A list of estimated non-project costs.

- Non-project costs within the TIRZ are those development costs not paid for by the TIRZ. These costs will include, but are not limited to, \$42.6 million, which is comprised of new development.

4. A statement of a method of relocating persons to be displaced as a result of implanting the plan.

- In the process of developing the TIRZ, any relocations will be made through the standard process and procedures of the City.

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: A

BOUNDARY DESCRIPTION

CITY OF HUNTSVILLE, TEXAS

Planning & Development
448 State Hwy. 75 North
Huntsville, Texas 77320

THE STATE OF TEXAS §

COUNTY OF WALKER §

I, Leonard E. Woods, Registered Professional Land Surveyor No. 2524, do hereby certify that this document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

TAX INCREMENT REINVESTMENT ZONE NUMBER ONE

Being a parcel of land containing approximately 805 acres, within the corporate limits of the City of Huntsville, situated in the LEWIS COX LEAGUE, Abstract No. 13, the PLEASANT GRAY LEAGUE, Abstract No. 24, the J. W. ADAMS SURVEY, Abstract No. 62, the PETER TUMLINSON LABOR, Abstract No. 539 and the JESSE YOUNG LABOR, Abstract No. 618, Walker County, Texas, said parcel being more particularity described by metes and bounds as follows;

BEGINNING in the southwest right-of-way line of Interstate Highway No. 45 at the most northerly corner of Lot 1 of West Hill Park, Section 4 as shown on a Plat recorded in Volume 3, page 146, Plat Records of Walker County, Texas;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45 and the northeast lines of Lots 1, 2, 4 and 3 of said West Hill Park, Section 4 to the east corner of said Lot 3;

THENCE S 70°06'59"W- 642.13 feet (Plat Call) to the most northerly northeast corner of Reserve "A" of said West Hill Park, Section 4 and the northwest corner of a called 3.636 acre tract described in a Deed to Boxcars Properties, LTD recorded in Volume 376, page 853, Official Public Records of Walker County, Texas;

-PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

THENCE S 22°18'40"E (Plat Call), with a west line of said Boxcars Properties, LTD tract, a distance of 355.65 feet (Plat Call) to the its southwest corner and a reentrant corner of said Reserve "A";

THENCE N 67°20'13"E (Plat Call); with the most easterly north line of said Reserve "A", a distance of 707.44 feet (Plat Call) to the most easterly northeast corner of said Reserve "A" in the southwest right-of-way line of Interstate Highway No. 45;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45 to the northeast corner of Lot 1 (1.9495 acre) of Parkwood Square as shown on a Plat recorded in Volume 3, page 77, Plat Records;

THENCE EASTERLY, with the north lines of said Lot 1 of Parkwood Square to its northwest corner in the east right-of-way line of West Hill Park Circle as shown on a Plat of West Hill Park recorded in Volume 2, page 189, Plat Records;

THENCE SOUTHERLY, with the east right-of-way line of said West Hill Park Circle, to a point in the north right-of-way line of State Highway No. 30;

THENCE WESTERLY, with the north right-of-way line of State Highway No. 30, to its intersection with the west right-of-way line of said West Hill Park Circle;

THENCE NORTHERLY, with the west right-of-way line of said West Hill Park Circle to a point on the north side of a Cull 'D Sac of said West Hill Park Circle and being a easterly corner of Lot 3 (1.85 acres) and a southerly corner of "Unrestricted Reserve" as shown on said Plat of West Hill Park;

THENCE N 31°31'43"W (Plat Call), with the common lines of said Lot 3 and Unrestricted Reserve of said West Hill Park, a distance of 177.46 feet (Plat Call) to the northeast corner of said Lot 3;

THENCE S 87°33'10"W (Plat Call), continuing with the common line of said Lot 3 and Unrestricted Reserve, a distance of 148.00 feet (Plat Call) to the northwest corner of said Lot 3 in the east line of a called 6.71 acre tract described in a Deed to Brazos-Huntsville, LP recorded in Volume 180, page 139, Deed Records of Walker County, Texas;

THENCE NORTHERLY, with the east line of said Brazos-Huntsville, LP tract, to its northeast corner;

THENCE WESTERLY, with the north line of said Brazos-Huntsville, LP tract, to its northwest corner;

THENCE SOUTHERLY, with the west line of said Brazos-Huntsville, LP tract, to its southwest corner in the north right-of-way line of State Highway No. 30;

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

THENCE WESTERLY, with the north right-of-way line of State Highway No. 30, to the southeast corner of Reserve "A" (8.91 acres) as shown on a Plat of West Hill Park, Phase 1 – Section 2 recorded in Volume 3, page 53, Plat Records;

THENCE SOUTHERLY, across State Highway No. 30, to the northwest corner of Lot 1, Block 1 (20.3565 acres) of West Hill Subdivision, Section One as shown on a Plat recorded in Volume 1, page 185, Plat Records, said corner being in the east right-of-way of Veterans Memorial Parkway (called West Hills Drive on said Plat recorded in Volume 1, page 185, Plat Records);

THENCE SOUTHERLY, with the east right-of-way of Veterans Memorial Parkway, to its intersection with the north right-of-way of Col. Etheredge Boulevard (called Commerce Drive on said Plat recorded in Volume 1, page 185, Plat Records);

THENCE NORTHEASTERLY, with the north right-of-way of Col. Etheredge Boulevard, to its intersection with the east right-of-way line of Financial Plaza as shown on said Plat recorded in Volume 1, page 185, Plat Records;

THENCE SOUTHEASTERLY, with the east right-of-way line of Financial Plaza, to the southwest corner of Lot 8 (0.44 acre) of a Replat of West Hill Subdivision, Section 1, Block 5 as shown on a Plat recorded in Volume 4, page 23, Plat Records, said corner being in the north line of called 248.02 acre tract described in a Deed to Sam Dominey recorded in Volume 90, page 488, Official Public Records;

THENCE EASTERLY, with the north line of said Dominey tract, to its northeast corner in the west line of Lot 2A (26.70 acres) of Replat of Lot 2A, Sundance Ranch, Section One as shown on a Plat recorded in Volume 3, page 76, Plat Records;

THENCE SOUTHERLY, with the east line of said Dominey tract and the west line of said Lot 2A, approximately 47 feet to the southwest corner of said Lot 2A and the northwest corner of a called 32.2328 acre tract described in a Deed to MNC Realty, LP recorded in Volume 456, page 155, Official Public Records;

THENCE N 86°17'30"W (Plat Call), with the south line of said Lot 2A and the north line of said MNC Realty, LP tract, a distance of 1563.49 feet (Plat Call) to the southeast corner of said Lot 2A and the northeast corner of said MNC Realty, LP 32.2328 acre tract in the southwest right-of-way line of Interstate Highway No. 45;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45, crossing Smither Drive, to its intersection with the northwest line of a called 80 acre tract described in a Deed to Sam Houston State Teachers College recorded in Volume 55, page 547, Deed Records, said point being also the most easterly corner of a called 125.35 acre

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

tract described in a Deed to John W. Amick, recorded in Volume 200, page 518, Official Public Records;

THENCE EASTERLY, across Interstate Highway No. 45, to the south corner of a called 1.92 acre tract described in a Deed to W.T. and H.Y. Robinson recorded in Volume 172, page 174, Deed Records;

THENCE N 60°43'E (Deed Call), with the southeast line of said Robinson 1.92 acre tract, a distance of 563.3 feet (Deed Call) to its east corner and the most westerly corner of a called 1.92 acre tract described in a Deed to the State of Texas recorded in Volume 171, page 374, Deed Records;

THENCE N 60°43'E (Deed Call), with the northwest line of said State of Texas 1.92 acre tract, a distance of 74.8 feet (Deed Call) to an angle corner;

THENCE N 05°24'E (Deed Call), with the west line of said State of Texas 1.92 acre tract, a distance of 94.6 feet (Deed Call) to its north corner;

THENCE S 64°25'E (Deed Call), with the north or northeast line of said State of Texas 1.92 acre tract, to the southeast corner of a called 0.466 acre tract described in a Deed to Bradley K. Alford recorded in Volume 451, page 551, Official Public Records, a 6" diameter steel fence corner post (Deed Call);

THENCE N 18°10'E (Deed Call), with the east line of said Alford 0.466 acre tract, a distance of 270.50 feet (Deed Call) to its northeast corner on the south line of 25th Street and in the east line of Sam Houston State University property;

THENCE SOUTHEASTERLY, across Sam Houston State University property, to the north corner of Yoakum Ridge subdivision recorded in Volume 1, page 29, Plat Records, a point on the southeast side of Avenue M (formerly Aberdeen Drive);

THENCE SOUTHWESTERLY, with the southeast right-of-way line of Avenue M, to its intersection with the northeast right-of-way of Interstate Highway No. 45;

THENCE SOUTHWESTERLY, across Interstate Highway No. 45, to the north corner of Goldenheaded Cane Associates, LTD 3.894 Acre Tract subdivision as shown on a Plat recorded in Volume 3, page 97, Plat Records, said corner being in the southeast line of said Sam Houston State Teachers College 80 acre tract;

THENCE SOUTHWESTERLY, with the southeast line of said Sam Houston State Teachers College 80 acre tract and the northwest line of said 3.894 Acre Tract as follows:

- (1) S 35°53'58"W- 128.54 feet (Plat Call)
- (2) S 32°24'05"W- 297.33 feet (Plat Call)

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

and (3) S 31°46'03"W- 277.51 feet (Plat Call) to the west corner of said 3.894 Acre Tract and the north corner of a called 2.29 acre tract described in a Deed to Paul Vilardi, Trustee, et al recorded in Volume 353, page 458, Deed Records;

THENCE SOUTHWESTERLY, continuing with the southeast line of said Sam Houston State Teachers College 80 acre tract to its south corner in the east line of a called 105.13 acre tract described in a Deed to Sam Houston Normal Institute recorded in Volume 50, page 145, Deed Records;

THENCE S 01°55'E- 68 varas (Deed Call) to the southeast corner of said Sam Houston Normal Institute 105.13 acre tract;

THENCE S 87°50'W (Deed Call), with the south line of said Sam Houston Normal Institute tract, crossing Veterans Memorial Parkway, a distance of 1166.2 varas (Deed Call) to an angle corner;

THENCE N 57°30'W (Deed Call), with the southwest line of said Sam Houston Normal Institute 105.13 acre tract, a distance of 346.3 varas (Deed Call) to the west corner of same and being the south corner of said Sam C. Dominey 248.20 acre tract;

THENCE with the southwest and west lines of said Dominey 248.20 acre tract as follows:

- (1) N 48°28'40"W- 715.72 feet (Deed Call)
- (2) N 22°44'37"E- 663.18 feet (Deed Call)
- (3) S 86°52'45"W- 510.44 feet (Deed Call)

and (4) N 02°27'14"W- 4709.44 feet (Deed Call) to the northwest corner of said Dominey 248.20 acre tract and the southwest corner of said West Hill Subdivision, Section One;

THENCE N 02°36'55"E (Plat Call), with the west line of said West Hill Subdivision, Section One, a distance of 1995.58 feet (Plat Call) to its northwest corner in the south right-of-way line of State Highway No. 30;

THENCE N 86°44'46"E (Plat Call), with the north line of said West Hill Subdivision, Section One and the south right-of-way line of State Highway No. 30, a distance of 200.00 feet (Plat Call) to the west right-of-way line of Veterans Memorial Parkway;

THENCE NORTHERLY, across State Highway No. 30, to the southeast corner of Lot 1 as shown on said Plat of West Hill Park, Phase 1 – Section 2 recorded in Volume 3, page 53, Plat Records, said corner being also in the west right-of-way line of Veterans Memorial Parkway, formerly called West Hills Drive on said Plat recorded in Volume 3, page 53, Plat Records;

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

THENCE NORTHERLY, with the east line of said Lot 1 and the west right-of-way line of Veterans Memorial Parkway, to the northeast corner of said Lot 1;

THENCE WESTERLY, with the north lines of said Lot 1, to its northwest corner, said corner being also the most westerly southwest corner of said Reserve "A" of West Hill Park, Phase 1 - Section 2;

THENCE N 07°55'42"W (Plat Call), with the most northerly west line of said Reserve "A", to its northwest corner in the south line of a tract owned by the State of Texas and part of the Texas Department of Criminal Justice "Wynne Farm";

THENCE N 87°23'57"E (Plat Call), with the common line of said Reserve "A" and T.D.C.J. "Wynne Farm" to the west right-of-way of Veterans Memorial Parkway and the southwest corner of a called 1.907 acre tract described in an Easement to the City of Huntsville, a concrete monument (Deed Call);

THENCE N 02°32'59"W (Deed Call), with the west right-of-way of Veterans Memorial Parkway and the west line of said City of Huntsville 1.907 acre Easement tract, a distance of 2080.30 feet (Deed Call) to its northwest corner in the southwest right-of-way line of Interstate Highway No. 45;

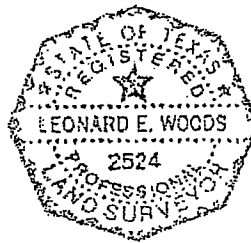
THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45, to the POINT OF BEGINNING.

Signed

Leonard E. Woods

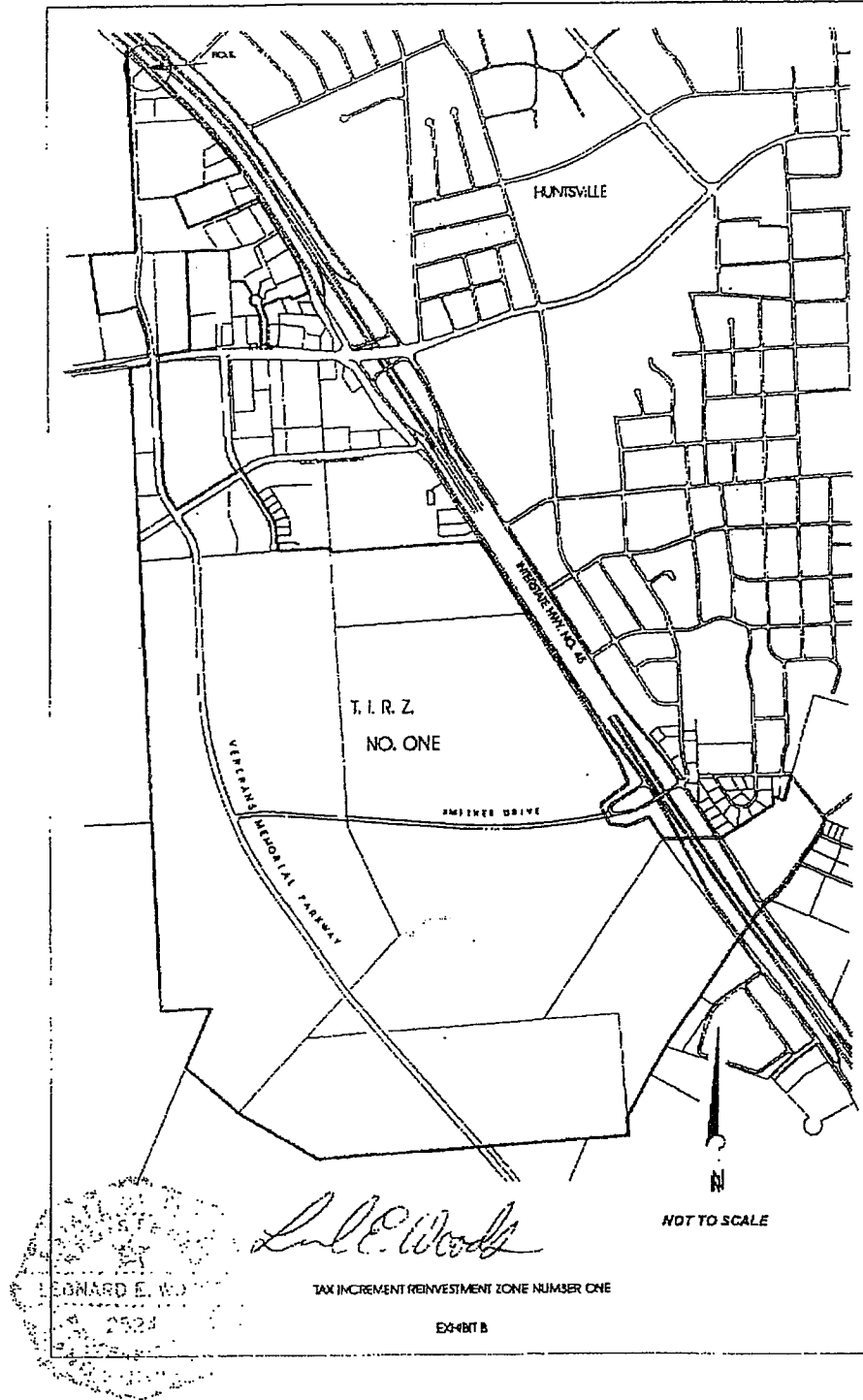
Leonard E. Woods

Reg. Prof. Land Surveyor No. 2524



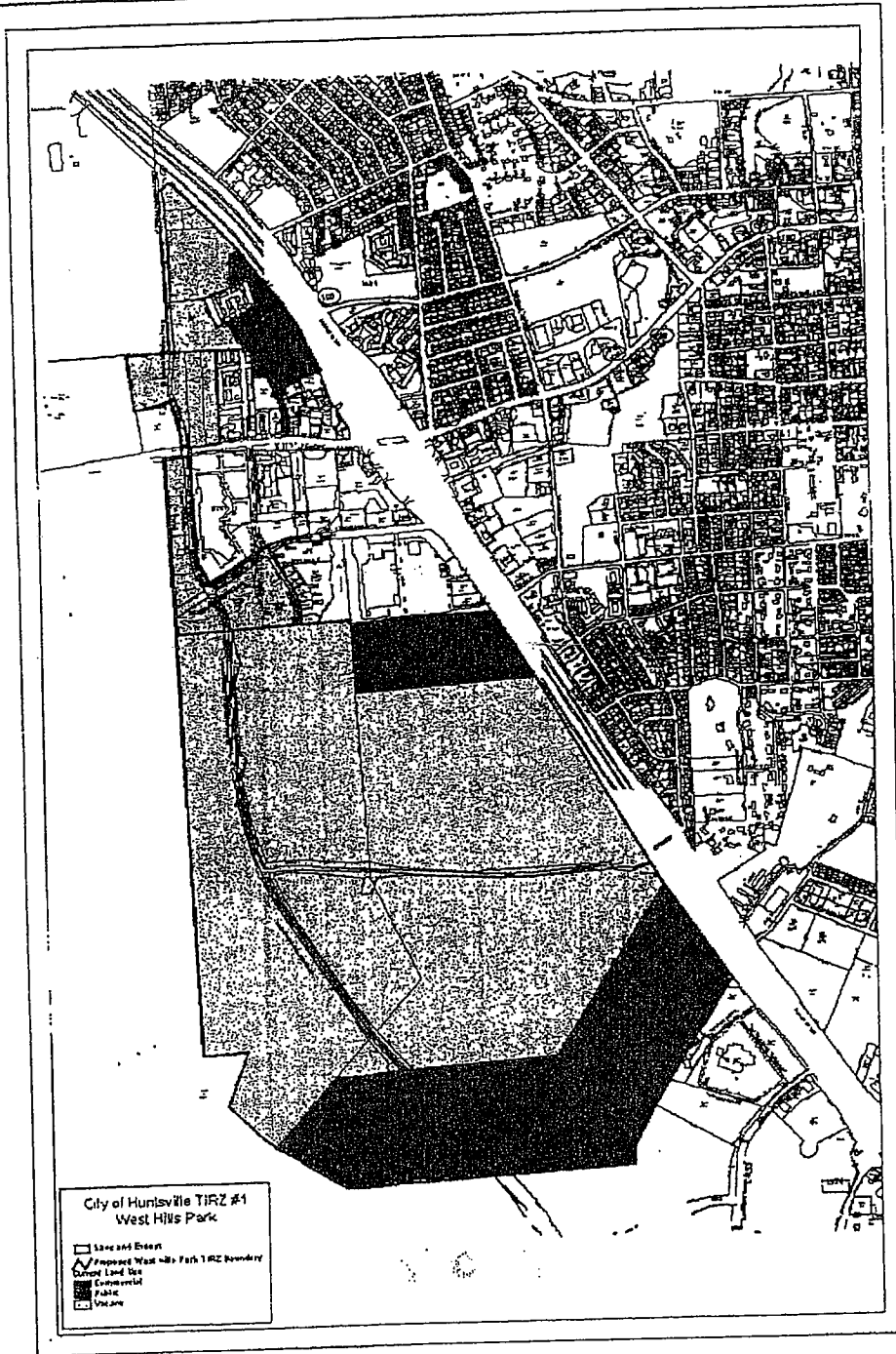
PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: B



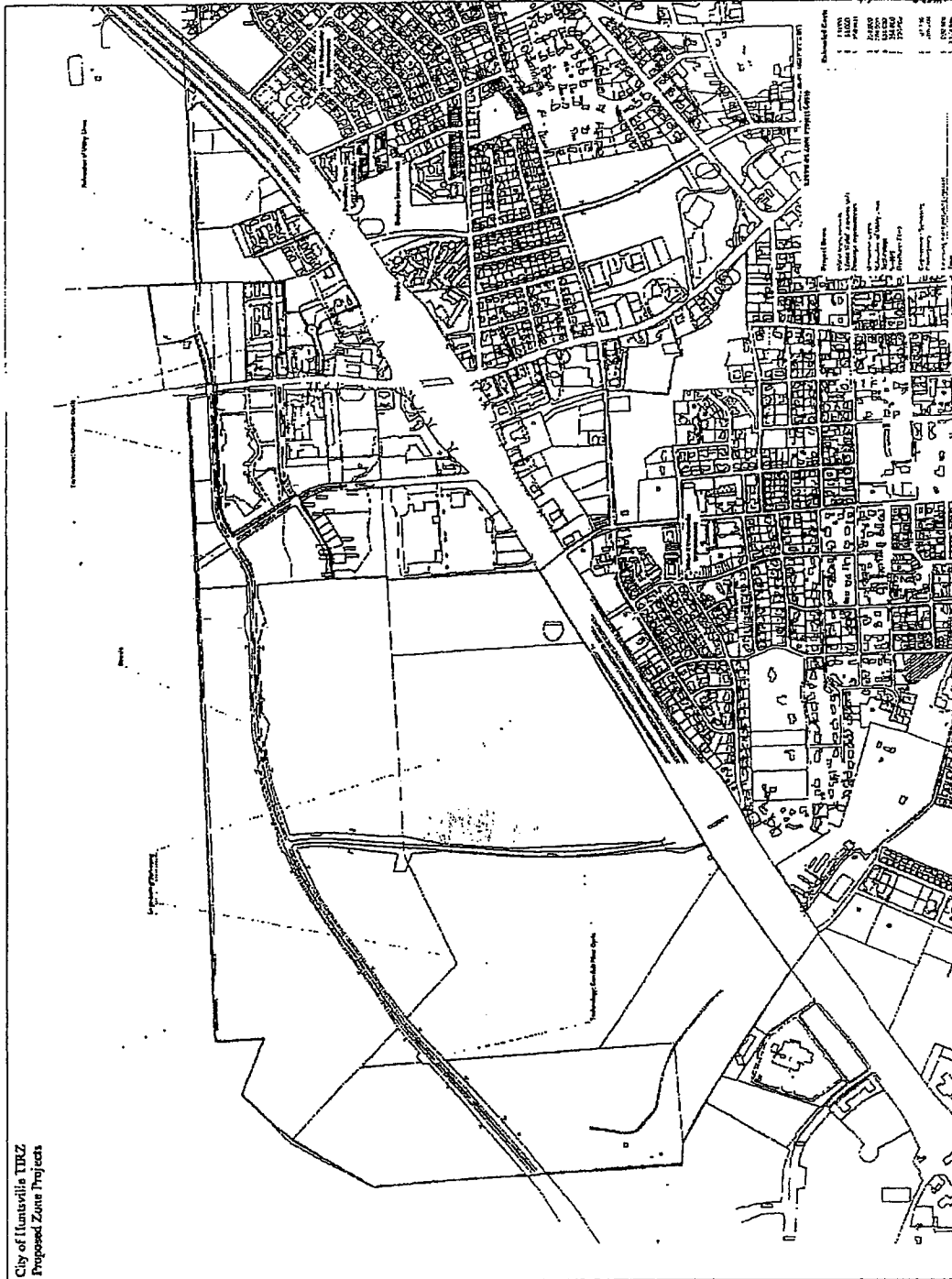
PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: C



PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: D



PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: E

PUBLIC INFRASTRUCTURE

Item	Estimated Cost \$ K	
Water	50	
Waste Water	96	
Drainage	150	
Demolition	250	
Utility Relocations	250	
Technology	950	
Streets	356	
SUBTOTAL		2,102
Engineering/Surveying Fees (15%)	315	
Financing Costs	600	
SUBTOTAL		915
Contingency & Admin Costs (10%)	302	
TOTAL		3,319
<i>Note: Public improvement program and cost supplied by Developer.</i>		

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: F

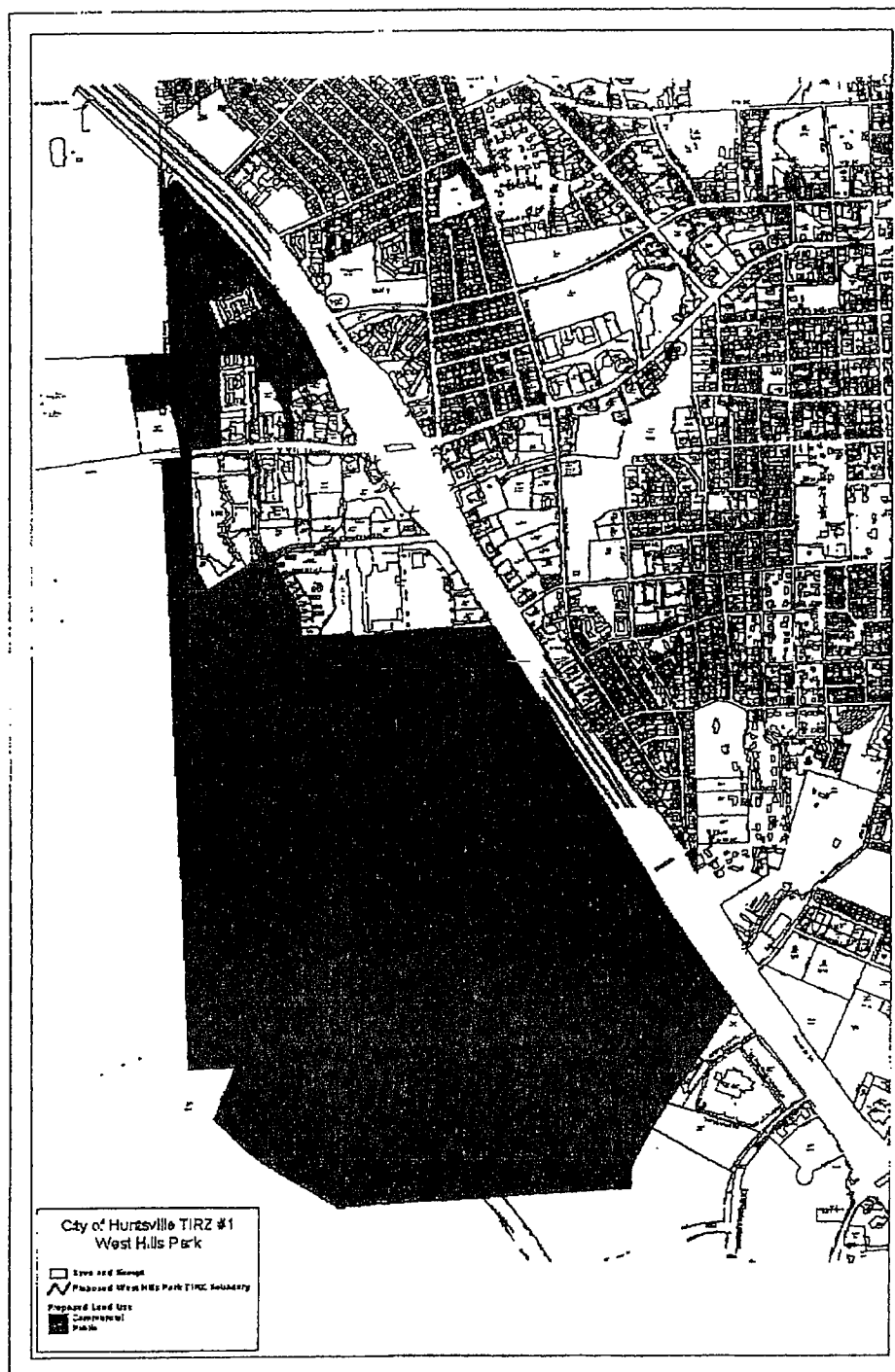
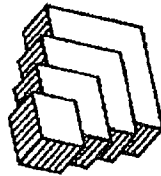


EXHIBIT B - PROJECT PLAN AND REINVESTMENT ZONE
FINANCING PLAN

Preliminary

FINANCE PLAN
August 2004

Tax Increment Reinvestment Zone No. 1
City of Huntsville, Texas



SCHRADER & CLINE, LLC

George R. Schrader Larry D. Cline

4800 Broadway, Ste A Addison, TX 75001
972-661-1973 schcli@swbell.net

FINANCE PLAN – HUNTSVILLE TIRZ NO. 1

AUGUST 2004

The Financing Plan provides information on the projected monetary impact that the formation of the Tax Increment Financing Reinvestment Zone (TIRZ) could have on the property described in *Finance Plan Exhibit: A* and shown in *Finance Plan Exhibit: B*. It will also describe how that impact can be utilized to enhance the area and region through leveraging the resources of each entity that participates in the project.

Below is a summary of the Financing Plan items required by law.

1. The proposed public improvements in the TIRZ may include:
 - Capital costs, including the actual costs of the construction of public works, public improvements, new buildings, structures, and fixtures; and the actual costs of the acquisition of land and the clearing and grading of land;
 - Financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;
 - Any real property assembly costs;
 - Professional service costs, including those incurred for architectural, planning, engineering, and legal advise and services;
 - Any relocation costs;
 - Organizational costs, including costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the TIRZ, and the cost of implementing the project plan for the TIRZ;
 - Interest before and during construction and for one year after completion of construction, whether or not capitalized;
 - The amount of any contributions made by the municipality from general revenue for the implementation of the project plan;
 - Imputed administrative costs, including reasonable charges for the time spent by employees of the municipality in connection with the implementation of a project plan;
 - The cost of operating the TIRZ and project facilities; and
 - Payments made at the discretion of the governing body of the municipality that the municipality finds necessary or convenient to the creation of the TIRZ or to the implementation of the project plans for the TIRZ.

FINANCE PLAN – HUNTSVILLE TIRZ NO. 1

The specific capital improvement projects anticipated to be undertaken in the Huntsville TIRZ No. 1, are included in *Finance Plan Exhibit: C*.

2. **Estimated Project Cost of TIRZ, including administrative expenses.**
 - Project costs are estimated at approximately \$ 3.3 million dollars. Specific cost estimates are included in *Finance Plan Exhibit: C*.
3. **Economic Feasibility Study.**
 - An economic feasibility analysis has been completed and is included as *Finance Plan Exhibit: D*.
4. **The estimated amount of bonded indebtedness to be incurred.**
 - Initial project related costs will be advanced by the Developer. Bonds may be issued when adequate tax increment has been created to support debt service.
5. **The time when related costs or monetary obligations are to be incurred.**
 - Please refer to *Finance Plan Exhibit: C* for details regarding the phasing and type of improvement costs anticipated.
6. **A description of the methods of financing all estimated project costs and the expected sources of revenue to finance-or-pay project costs including the percentage of tax increment to be derived from the property taxes of each taxing unit on real property in the TIRZ**
 - Project costs will be financed through loans advanced by developers or the use of tax increment funds received on a pay-as-you-go basis. No new debt is envisioned at this time, but bonds may be issued at a later date when adequate tax increment has been created to support debt service. The revenue sources will be the real property taxes captured by the TIRZ, which will account for 100% of revenues used to fund project costs or bond debt service. For the Financial Plan, it is assumed that the City will participate at 100% of its incremental taxable value and the County will participate at \$0.425/\$100 valuation.
7. **The current total appraised value of taxable real property in the TIRZ.**
 - The current appraised base value of the taxable real property in the TIRZ using the 2003 values provided by the Walker County Appraisal District is \$10,000,000. This base value will be updated to 2004 certified values when they are available.

FINANCE PLAN - HUNTSVILLE TIRZ NO. 1

8. The estimated appraised value of the improvements in the TIRZ during each year of its existence.
- The estimated appraised value of the improvements in the TIRZ per year is listed in the following table.

Table 1: Assessed Real Property Value of Anticipated New Development
TIRZ No. 1, Huntsville, Texas
Years 2004-2023

YEAR	TOTAL ASSESSED VALUE, \$M
2004	\$ 10.0
2005	25.8
2006	44.7
2007	52.6
2008	52.6
2009	52.6
2010	52.6
2011	52.6
2012	52.6
2013	52.6
2014	52.6
2015	52.6
2016	52.6
2017	52.6
2018	52.6
2019	52.6
2020	52.6
2021	52.6
2022	52.6
2023	52.6

FINANCE PLAN – HUNTSVILLE TIRZ NO. 1

- The estimated annual incremental funds available from future development in the TIRZ are listed in the following table.

Table 2: Annual Incremental Funds Available from TIRZ No. 1, Huntsville, Texas Years 2004-2023						
Year	Assessed Value, \$M	Base Assessed Value, \$M	Annual Captured Value, \$M	TIRZ Funds, \$K City \$0.425	TIRZ Funds, \$K County \$0.425	TIRZ Funds, \$K Total \$0.83
2004	10.0	10.0	-	-	-	-
2005	25.8	10.0	15.8	-	-	-
2006	44.7	10.0	34.7	67.0	67.0	134.0
2007	52.6	10.0	42.6	147.5	147.5	295.0
2008	52.6	10.0	42.6	181.0	181.0	362.0
2009	52.6	10.0	42.6	181.0	181.0	362.0
2010	52.6	10.0	42.6	181.0	181.0	362.0
2011	52.6	10.0	42.6	181.0	181.0	362.0
2012	52.6	10.0	42.6	181.0	181.0	362.0
2013	52.6	10.0	42.6	181.0	181.0	362.0
2014	52.6	10.0	42.6	181.0	181.0	362.0
2015	52.6	10.0	42.6	181.0	181.0	362.0
2016	52.6	10.0	42.6	181.0	181.0	362.0
2017	52.6	10.0	42.6	181.0	181.0	362.0
2018	52.6	10.0	42.6	181.0	181.0	362.0
2019	52.6	10.0	42.6	181.0	181.0	362.0
2020	52.6	10.0	42.6	181.0	181.0	362.0
2021	52.6	10.0	42.6	181.0	181.0	362.0
2022	52.6	10.0	42.6	181.0	181.0	362.0
2023	52.6	10.0	42.6	181.0	181.0	362.0
				181.0	181.0	362.0
TOTAL				3,291.5	3,291.5	6,583

9. The duration of the TIRZ:

- The TIRZ was created August 3, 2004. It is proposed that the TIRZ exist for twenty (20) years with termination of the TIRZ set as August 2, 2024 or the date when all project costs are paid and any debt is retired, whichever comes first.

FINANCE PLAN - HUNTSVILLE TIRZ NO. 1

Finance Plan Exhibit: A

BOUNDARY DESCRIPTION

CITY OF HUNTSVILLE, TEXAS

Planning & Development
448 State Hwy. 75 North
Huntsville, Texas 77320

THE STATE OF TEXAS §

COUNTY OF WALKER §

I, Leonard E. Woods, Registered Professional Land Surveyor No. 2524, do hereby certify that this document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

TAX INCREMENT REINVESTMENT ZONE NUMBER ONE

Being a parcel of land containing approximately 805 acres, within the corporate limits of the City of Huntsville, situated in the LEWIS COX LEAGUE, Abstract No. 13, the PLEASANT GRAY LEAGUE, Abstract No. 24, the J. W. ADAMS SURVEY, Abstract No. 62, the PETER TUMLINSON LABOR, Abstract No. 539 and the JESSE YOUNG LABOR, Abstract No. 618, Walker County, Texas, said parcel being more particularly described by metes and bounds as follows;

BEGINNING in the southwest right-of-way line of Interstate Highway No. 45 at the most northerly corner of Lot 1 of West Hill Park, Section 4 as shown on a Plat recorded in Volume 3, page 146, Plat Records of Walker County, Texas;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45 and the northeast lines of Lots 1, 2, 4 and 3 of said West Hill Park, Section 4 to the east corner of said Lot 3;

THENCE S 70°06'59"W- 642.13 feet (Plat Call) to the most northerly northeast corner of Reserve "A" of said West Hill Park, Section 4 and the northwest corner of a called 3.636 acre tract described in a Deed to Boxcars Properties, LTD recorded in Volume 376, page 853, Official Public Records of Walker County, Texas;

FINANCE PLAN - HUNTSVILLE TIRZ NO. 1

THENCE S 22°18'40"E (Plat Call), with a west line of said Boxcars Properties, LTD tract, a distance of 355.65 feet (Plat Call) to the its southwest corner and a reentrant corner of said Reserve "A";

THENCE N 67°20'13"E (Plat Call), with the most easterly north line of said Reserve "A", a distance of 707.44 feet (Plat Call) to the most easterly northeast corner of said Reserve "A" in the southwest right-of-way line of Interstate Highway No. 45;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45 to the northeast corner of Lot 1 (1.9495 acre) of Parkwood Square as shown on a Plat recorded in Volume 3, page 77, Plat Records;

THENCE EASTERLY, with the north lines of said Lot 1 of Parkwood Square to its northwest corner in the east right-of-way line of West Hill Park Circle as shown on a Plat of West Hill Park recorded in Volume 2, page 189, Plat Records;

THENCE SOUTHERLY, with the east right-of-way line of said West Hill Park Circle, to a point in the north right-of-way line of State Highway No. 30;

THENCE WESTERLY, with the north right-of-way line of State Highway No. 30, to its intersection with the west right-of-way line of said West Hill Park Circle;

THENCE NORTHERLY, with the west right-of-way line of said West Hill Park Circle to a point on the north side of a Cull 'D' Sac of said West Hill Park Circle and being a easterly corner of Lot 3 (1.85 acres) and a southerly corner of "Unrestricted Reserve" as shown on said Plat of West Hill Park;

THENCE N 31°31'43"W (Plat Call), with the common lines of said Lot 3 and Unrestricted Reserve of said West Hill Park, a distance of 177.46 feet (Plat Call) to the northeast corner of said Lot 3;

THENCE S 87°33'10"W (Plat Call), continuing with the common line of said Lot 3 and Unrestricted Reserve, a distance of 148.00 feet (Plat Call) to the northwest corner of said Lot 3 in the east line of a called 6.71 acre tract described in a Deed to Brazos-Huntsville, LP recorded in Volume 180, page 139, Deed Records of Walker County, Texas;

THENCE NORTHERLY, with the east line of said Brazos-Huntsville, LP tract, to its northeast corner;

THENCE WESTERLY, with the north line of said Brazos-Huntsville, LP tract, to its northwest corner;

THENCE SOUTHERLY, with the west line of said Brazos-Huntsville, LP tract, to its southwest corner in the north right-of-way line of State Highway No. 30;

FINANCE PLAN - HUNTSVILLE TIRZ NO. 1

THENCE WESTERLY, with the north right-of-way line of State Highway No. 30, to the southeast corner of Reserve "A" (8.91 acres) as shown on a Plat of West Hill Park, Phase 1 - Section 2 recorded in Volume 3, page 53, Plat Records;

THENCE SOUTHERLY, across State Highway No. 30, to the northwest corner of Lot 1, Block 1 (20.3565 acres) of West Hill Subdivision, Section One as shown on a Plat recorded in Volume 1, page 185, Plat Records, said corner being in the east right-of-way of Veterans Memorial Parkway (called West Hills Drive on said Plat recorded in Volume 1, page 185, Plat Records);

THENCE SOUTHERLY, with the east right-of-way of Veterans Memorial Parkway, to its intersection with the north right-of-way of Col. Etheredge Boulevard (called Commerce Drive on said Plat recorded in Volume 1, page 185, Plat Records);

THENCE NORTHEASTERLY, with the north right-of-way of Col. Etheredge Boulevard, to its intersection with the east right-of-way line of Financial Plaza as shown on said Plat recorded in Volume 1, page 185, Plat Records;

THENCE SOUTHEASTERLY, with the east right-of-way line of Financial Plaza, to the southwest corner of Lot 8 (0.44 acre) of a Replat of West Hill Subdivision, Section 1, Block 5 as shown on a Plat recorded in Volume 4, page 23, Plat Records, said corner being in the north line of called 248.02 acre tract described in a Deed to Sam Dominey recorded in Volume-90, page 488, Official Public Records;

THENCE EASTERLY, with the north line of said Dominey tract, to its northeast corner in the west line of Lot 2A (26.70 acres) of Replat of Lot 2A, Sundance Ranch, Section One as shown on a Plat recorded in Volume 3, page 76, Plat Records;

THENCE SOUTHERLY, with the east line of said Dominey tract and the west line of said Lot 2A, approximately 47 feet to the southwest corner of said Lot 2A and the northwest corner of a called 32.2328 acre tract described in a Deed to MNC Realty, LP recorded in Volume 456, page 155, Official Public Records;

THENCE N 86°17'30"W (Plat Call), with the south line of said Lot 2A and the north line of said MNC Realty, LP tract, a distance of 1563.49 feet (Plat Call) to the southeast corner of said Lot 2A and the northeast corner of said MNC Realty, LP 32.2328 acre tract in the southwest right-of-way line of Interstate Highway No. 45;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45, crossing Smither Drive, to its intersection with the northwest line of a called 80 acre tract described in a Deed to Sam Houston State Teachers College recorded in Volume 55, page 547, Deed Records, said point being also the most easterly corner of a called 125.35 acre

FINANCE PLAN - HUNTSVILLE TIRZ NO. 1

tract described in a Deed to John W. Amick recorded in Volume 200, page 518, Official Public Records;

THENCE EASTERLY, across Interstate Highway No. 45, to the south corner of a called 1.92 acre tract described in a Deed to W.T. and H.Y. Robinson recorded in Volume 172, page 174, Deed Records;

THENCE N 60°43'E (Deed Call), with the southeast line of said Robinson 1.92 acre tract, a distance of 563.3 feet (Deed Call) to its east corner and the most westerly corner of a called 1.92 acre tract described in a Deed to the State of Texas recorded in Volume 171, page 374, Deed Records;

THENCE N 60°43'E (Deed Call), with the northwest line of said State of Texas 1.92 acre tract, a distance of 74.8 feet (Deed Call) to an angle corner;

THENCE N 05°24'E (Deed Call), with the west line of said State of Texas 1.92 acre tract, a distance of 94.6 feet (Deed Call) to its north corner;

THENCE S 64°25'E (Deed Call), with the north or northeast line of said State of Texas 1.92 acre tract, to the southeast corner of a called 0.466 acre tract described in a Deed to Bradley K. Alford recorded in Volume 451, page 551, Official Public Records, a 6" diameter steel fence corner post (Deed Call);

THENCE N 18°10'E (Deed Call), with the east line of said Alford 0.466 acre tract, a distance of 270.50 feet (Deed Call) to its northeast corner on the south line of 25th Street and in the east line of Sam Houston State University property;

THENCE SOUTHEASTERLY, across Sam Houston State University property, to the north corner of Yoakum Ridge subdivision recorded in Volume 1, page 29, Plat Records, a point on the southeast side of Avenue M (formerly Aberdeen Drive);

THENCE SOUTHWESTERLY, with the southeast right-of-way line of Avenue M, to its intersection with the northeast right-of-way of Interstate Highway No. 45;

THENCE SOUTHWESTERLY, across Interstate Highway No. 45, to the north corner of Goldenheaded Cane Associates, LTD 3.894 Acre Tract subdivision as shown on a Plat recorded in Volume 3, page 97, Plat Records, said corner being in the southeast line of said Sam Houston State Teachers College 80 acre tract;

THENCE SOUTHWESTERLY, with the southeast line of said Sam Houston State Teachers College 80 acre tract and the northwest line of said 3.894 Acre Tract as follows:

- (1) S 35°53'58"W- 128.54 feet (Plat Call)
- (2) (2) S 32°24'05"W- 297.33 feet (Plat Call)

FINANCE PLAN - HUNTSVILLE TIRZ NO. 1

and (3) S 31°46'03"W- 277.51 feet (Plat Call) to the west corner of said 3.894 Acre Tract and the north corner of a called 2.29 acre tract described in a Deed to Paul Vilardi, Trustee, et al recorded in Volume 353, page 458, Deed Records;

THENCE SOUTHWESTERLY, continuing with the southeast line of said Sam Houston State Teachers College 80 acre tract to its south corner in the east line of a called 105.13 acre tract described in a Deed to Sam Houston Normal Institute recorded in Volume 50, page 145, Deed Records;

THENCE S 01°55'E- 68 varas (Deed Call) to the southeast corner of said Sam Houston Normal Institute 105.13 acre tract;

THENCE S 87°50'W (Deed Call), with the south line of said Sam Houston Normal Institute tract, crossing Veterans Memorial Parkway, a distance of 1166.2 varas (Deed Call) to an angle corner;

THENCE N 57°30'W (Deed Call), with the southwest line of said Sam Houston Normal Institute 105.13 acre tract, a distance of 346.3 varas (Deed Call) to the west corner of same and being the south corner of said Sam C. Dominey 248.20 acre tract;

THENCE with the southwest and west lines of said Dominey 248.20 acre tract as follows;

- (1) N 48°28'40"W- 715.72 feet (Deed Call)
- (2) N 22°44'37"E- 663.18 feet (Deed Call)
- (3) S 86°52'45"W- 510.44 feet (Deed Call)

and (4) N 02°27'14"W- 4709.44 feet (Deed Call) to the northwest corner of said Dominey 248.20 acre tract and the southwest corner of said West Hill Subdivision, Section One;

THENCE N 02°36'55"E (Plat Call), with the west line of said West Hill Subdivision, Section One, a distance of 1995.58 feet (Plat Call) to its northwest corner in the south right-of-way line of State Highway No. 30;

THENCE N 86°44'46"E (Plat Call), with the north line of said West Hill Subdivision, Section One and the south right-of-way line of State Highway No. 30, a distance of 200.00 feet (Plat Call) to the west right-of-way line of Veterans Memorial Parkway;

THENCE NORTHERLY, across State Highway No. 30, to the southeast corner of Lot 1 as shown on said Plat of West Hill Park, Phase 1 - Section 2 recorded in Volume 3, page 53, Plat Records, said corner being also in the west right-of-way line of Veterans Memorial Parkway, formerly called West Hills Drive on said Plat recorded in Volume 3, page 53, Plat Records;

FINANCE PLAN - HUNTSVILLE TIRZ NO. 1

THENCE NORTHERLY, with the east line of said Lot 1 and the west right-of-way line of Veterans Memorial Parkway, to the northeast corner of said Lot 1;

THENCE WESTERLY, with the north lines of said Lot 1, to its northwest corner, said corner being also the most westerly southwest corner of said Reserve "A" of West Hill Park, Phase 1 - Section 2;

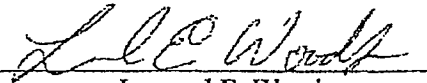
THENCE N 07°55'42"W (Plat Call), with the most northerly west line of said Reserve "A", to its northwest corner in the south line of a tract owned by the State of Texas and part of the Texas Department of Criminal Justice "Wynne Farm";

THENCE N 87°23'57"E (Plat Call), with the common line of said Reserve "A" and T.D.C.J. "Wynne Farm" to the west right-of-way of Veterans Memorial Parkway and the southwest corner of a called 1.907 acre tract described in an Easement to the City of Huntsville, a concrete monument (Deed Call);

THENCE N 02°32'59"W (Deed Call), with the west right-of-way of Veterans Memorial Parkway and the west line of said City of Huntsville 1.907 acre Easement tract, a distance of 2080.30 feet (Deed Call) to its northwest corner in the southwest right-of-way line of Interstate Highway No. 45;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45, to the **POINT OF BEGINNING**.

Signed



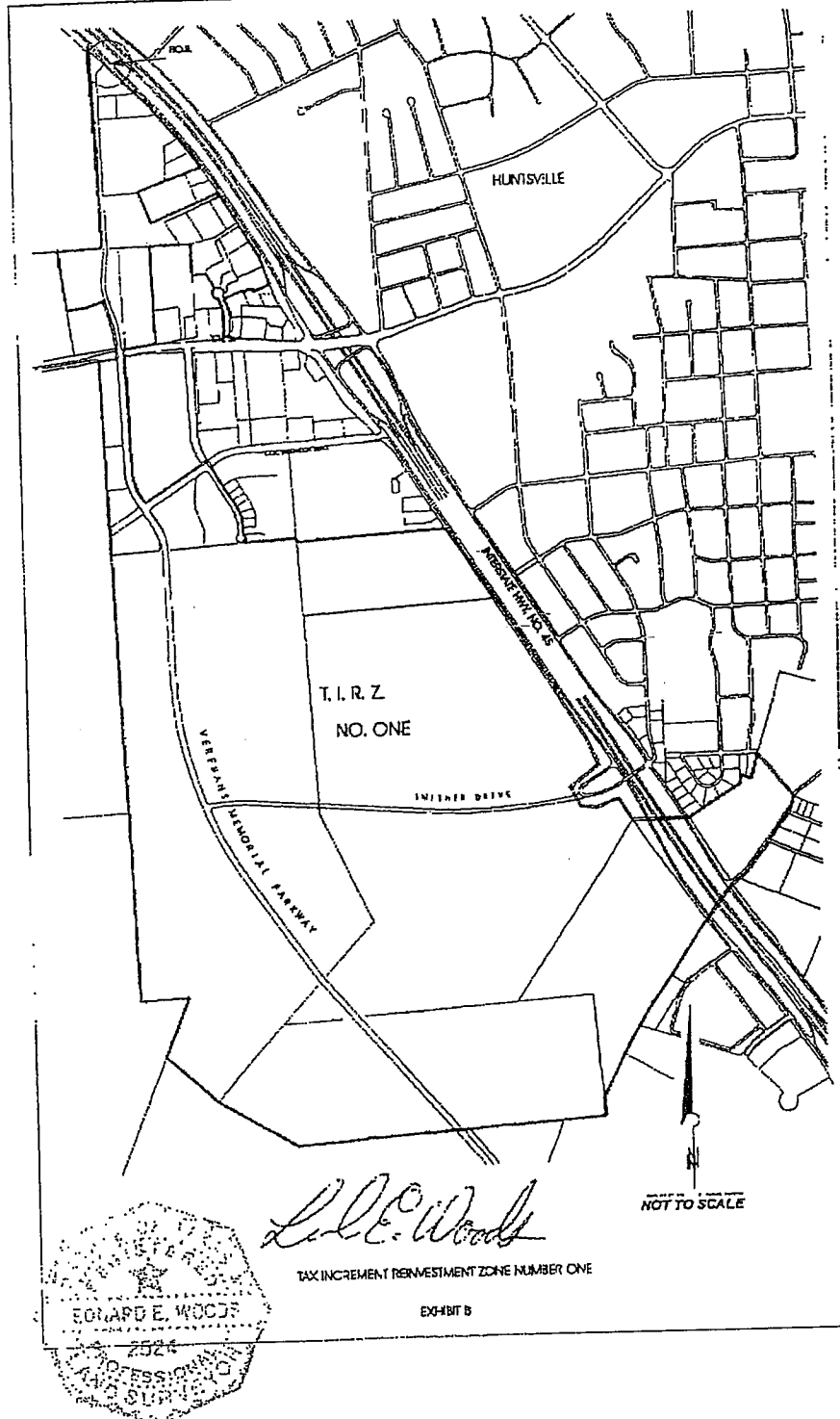
Leonard E. Woods

Reg. Prof. Land Surveyor No. 2524



FINANCE PLAN - HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: B



FINANCE PLAN - HUNTSVILLE TIRZ NO. 1

Finance Plan Exhibit: C

PUBLIC INFRASTRUCTURE

Item	Estimated Cost \$ K	
Water	50	
Waste Water	96	
Drainage	150	
Demolition	250	
Utility Relocations	250	
Technology	950	
Streets	356	
	SUBTOTAL	2,102
Engineering/Surveying Fees (15%)	315	
Financing Costs	600	
	SUBTOTAL	915
Contingency & Admin Costs (10%)	302	
<u>TOTAL</u>		3,319

Note: Public improvement program and cost supplied by Developer.

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Preliminary

FEASIBILITY ANALYSIS
August 2004

Tax Increment Reinvestment Zone No. 1
City of Huntsville, Texas

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

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FINANCE PLAN: EXHIBIT D—Feasibility Analysis

FORWARD

Schrader & Cline, LLC was asked to prepare a Feasibility Analysis using tax increment financing to encourage accelerated development and redevelopment of the _____ Area Tax Increment Reinvestment Zone No. 1 in the City of Huntsville, Texas. This area of the City needs public infrastructure projects that will provide a stimulus for new development and redevelopment of existing facilities.

Section I summarizes the history of Huntsville and discusses the current situation.

Section II details the tax increment analysis.

Section III contains exhibits.

The following projections of development and tax revenues are subject to change. As underlying conditions in the national and regional economy change, the pace and value of new development and redevelopment projected for the TIRZ area may shift. Future property tax rates are particularly difficult to predict given their dependence on changes in the tax base, the mix of taxes levied and the various jurisdictions' overall fiscal and budgetary policies. Thus, the projected tax increments are subject to change. The analysis of future tax increment funds is dependent on a series of projections, assumptions, and other inputs; the report should be reviewed in totality.

Neither this report nor its conclusions may be referred to or included in any prospectus or part of any offering made in connection with private syndication of equity, sale of bonds, sale of securities or sale of participation interests to the public without express written approval



SCHRADER & CLINE, LLC

Schrader & Cline, LLC
Addison, Texas
August 2004

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

SECTION I: HISTORY/CURRENT SITUATION**HISTORY**

The City of Huntsville was established in 1835 or 1836 and was designated the seat of Walker County when the county was organized in 1846. At the end of its first decade, Huntsville became the site of the new Texas State Penitentiary, established by the Legislature in 1847. In 1852, Austin College was opened and later, in 1879, Austin College became Sam Houston State University. These two institutions, the Penitentiary and the University, have provided employment stability unique to most towns and even today are the two largest employers in the City of Huntsville.

On the whole, the Huntsville economy remained fairly stable from the Civil War through the Great Depression. Highway development in the late 1920's and early 1930's enhanced Huntsville's position as a trade center for a significant rural area of East Texas. Beyond the two state institutions mentioned previously, lumbering, farming, livestock raising, and tourism have constituted the economic base of the city. The growth of the penitentiary system and of Sam Houston State University, the expansion of metropolitan Houston, and the development of Lake Livingston and similar attractive living areas revitalized the economy in the 1970's and 1980's. Population of the City has continued to grow, increasing from 23,936 in 1980, to 27,925 in 1990, and to the 2000 population of 35,078. Notice that the population is increasing at a more rapid rate, growing 16.7% between 1980 to 1990, but at a 25.6% rate between 1990 to 2000. This continued more rapid growth rate drives the need for more convenience retail and restaurants.

CURRENT SITUATION

With continued growth of the City creating a need for additional retail and restaurants, a logical location for these uses would be adjacent to the highest traffic area of the City—along Interstate 45. And, there is a large generally undeveloped 800+-acre tract in just that area along the west side of IH 45, north of FM 1374 and south of the Veteran's Memorial Parkway intersection with IH 45. However, even though IH45 has been completed and in service for years, and utilities have been available in some areas of this tract to serve private investment,

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

these prevailing conditions have not attracted enough private investment interest to complete development of this area. Without additional public infrastructure, the opportunity for a significant infusion of new convenience retail and restaurants will be denied, and any new development will most likely be done in a piece meal fashion, one development at a time, and will occur over an extended period of time.

To make this area more desirable and useable for private development, additional public infrastructure is needed. One method of funding this additional public infrastructure is through the use of a Tax Increment Reinvestment Zone (TIRZ) that would utilize real property tax revenue from new private investment as a funding mechanism. Based on the City's interest in establishing a TIRZ, a developer is proposing to develop about 40-acres within the 805-acre TIRZ boundary. Real property taxes from the proposed development would be utilized to repay the developer for construction of the public improvements shown in Exhibit A that are required to support the private development projects shown in Exhibit B.

This proposed development would occur during the 2005-2007 time period and would be a multi-use development of retail, restaurant, hotel and theatre. With the stimulus provided by this initial development, it is expected the remainder of the TIRZ will develop over a shorter period than would occur without benefit of the TIRZ as an incentive for development. However, none of the future development has been included in the analysis.

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

SECTION II: TAX INCREMENT ANALYSIS

This section documents the detailed analysis and inputs used to generate the tax increment revenue estimates. Tax Increment financing involves:

- Designating an eligible redevelopment area as a tax increment financing reinvestment zone;
- Soliciting participation of the taxing jurisdictions (County only);
- Setting the assessment base at the level of the most recent assessment; and
- Placing tax revenues generated by the increase in assessed value to a tax increment fund for funding public improvements.

Thus, future tax increment revenues depend on four elements:

- The timing and added value of new development;
- Appreciation of existing land and improvements;
- The loss of value from any existing improvements demolished to make way for new development; and
- Future tax rates and the percentage of participation of each taxing jurisdiction.

Assessment policies in Walker County generally set building assessments at 100 percent of fair market value, which may be somewhat less than construction costs for new construction. Values used in this analysis have been adjusted accordingly. Assessed values are established as of January 1 of the tax year. Thus, development in 2004 goes on the tax rolls for the Tax Year 2005. In this analysis, to be conservative, no increase in existing land value will be included and new development values have not been increased after full build-out. In addition, only taxes from increases in real property values are directed to the TIRZ Fund. Taxes from increases in business personal property and inventory values continue to flow to each taxing jurisdiction.

The total year 2003 assessed value of the property within the TIRZ boundary was about \$10 million. For purposes of this tax increment analysis, we have assumed that the initial assessment base for the tax increment fund will be \$10 million. Taxes on this amount will

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

continue to flow to each taxing jurisdiction during the life of the TIRZ. This base tax value will be revised when the 2004 certified values become available.

The TIRZ Fund generated by the incremental value of new development shown in Exhibits C and D are calculated by multiplying the incremental assessed value by the property tax rates of participating jurisdictions.

Fiscal year 2003 tax rates included:

<u>JURISDICTION</u>	<u>TAX RATE PER \$100 OF ASSESSED VALUE</u>
City of Huntsville	\$ 0.425
Walker County	\$ 0.425

Over the 20-year projection period, we have conservatively assumed that the nominal tax rates will remain constant.

Taxes generated against tax year 2005 values as of January 1, 2005 are due and collected at the beginning of 2006. This analysis compares income flowing to each taxing jurisdiction both with and without the TIRZ.

Without the TIRZ, new private development value over twenty years shown in Exhibits E and F will total only \$34.1 million, with an associated business personal property and business inventory value of \$7.5 million over the next 20 years. This development value is somewhat less than the value with the TIRZ and is projected to develop at a much slower rate than with the TIRZ.

These projected incremental assessed values would yield the following tax revenues as shown in Exhibit G:

<u>JURISDICTION</u>	<u>TOTAL 20-YEAR TAX REVENUE</u>
City of Huntsville	\$ 1,741,000
Walker County	\$ 2,560,000

In addition to income from the real property and business personal property and inventory without the TIRZ shown above, the City and County will also benefit from sales tax income as shown in Exhibit H:

<u>JURISDICTION</u>	<u>TOTAL 20-YEAR TAX REVENUE</u>
City of Huntsville	\$ 4,584,000
Walker County	\$ 1,532,000

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

With the TIRZ, new private development value over twenty years as shown in Exhibits C and D will total \$42.6 million with an associated business personal property and business inventory value of \$9.4 million. These projected incremental assessed values would yield the following tax revenues as shown in Exhibit D:

<u>JURISDICTION</u>	<u>TOTAL 20-YEAR TAX REVENUE</u>
TIRZ Fund	\$ 6,583,000
City of Huntsville	\$ 578,000
Walker County	\$ 2,610,000

In addition to income from the real property and business personal property and inventory with the TIRZ shown above, the City and County will also benefit from sales tax income as shown in Exhibit H:

<u>JURISDICTION</u>	<u>TOTAL 20-YEAR TAX REVENUE</u>
City of Huntsville	\$ 8,882,000
Walker County	\$ 2,961,000

Based on this analysis, establishment of the TIRZ will provide income to the TIRZ Fund of \$ 6.583 million dollars over the next twenty years, which will adequately fund the projected \$3.3 million of public infrastructure projects. In addition, during the 20-year life of the TIRZ, the City will receive about 50% more and the County will receive about 36% more tax revenue than they would have received without the TIRZ as shown in Exhibit I. Tax revenue for the first year after expiration of the TIRZ (21-years) will be \$732,000 and \$498,000 for the City and County respectively versus \$509,000 and \$404,000 that would have been received without the TIRZ.

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: A

PUBLIC INFRASTRUCTURE

Item	Estimated Cost \$ K	
Water	50	
Waste Water	96	
Drainage	150	
Demolition	250	
Utility Relocations	250	
Technology	950	
Streets	356	
	SUBTOTAL	2,102
Engineering/Surveying Fees (15%)	315	
Financing Costs	600	
	SUBTOTAL	915
Contingency & Admin Costs (10%)	302	
<u>TOTAL</u>		3,319

Note: Public improvement program and cost supplied by Developer.

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: B

PROPOSED BUILDOUT SCHEDULE (With TIRZ)

YEAR	USE	SIZE K/Sq. Ft.	VALUE \$K
2005	Grocery	66	8,550
	Larger Retail	38	4,000
	Retail	12	1,500
	Retail	15	1,750
	SUBTOTAL	131	15,800
2006	Theatre	18	3,300
	Conference/Hotel	81	8,500
	Eatery	3	875
	Eatery	4	900
	Retail	22	3,350
	Eatery	4	800
	Eatery	8	1,200
	SUBTOTAL	140	18,925
2007	Eatery	6	850
	Motel and Eatery	14	2,250
	Gas Station	5	1,250
	Pharmacy	16	2,150
	Bank	9	1,350
	SUBTOTAL	50	7,850
	TOTAL	321	42,575

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: C

TIRZ FUND (With TIRZ)

YEAR	DEVELOPMENT VALUE, \$K	DEVELOPMENT CUM. VALUE \$K	TIRZ FUND * \$K
2004	-	-	-
2005	15,800	15,800	-
2006	18,925	34,725	134
2007	7,850	42,575	295
2008	-	42,575	362
2009	-	42,575	362
2010	-	42,575	362
2011	-	42,575	362
2012	-	42,575	362
2013	-	42,575	362
2014	-	42,575	362
2015	-	42,575	362
2016	-	42,575	362
2017	-	42,575	362
2018	-	42,575	362
2019	-	42,575	362
2020	-	42,575	362
2021	-	42,575	362
2022	-	42,575	362
2023	-	42,575	362
2024	-	-	362
TOTAL	42,575	42,575	6,583
* Based on Tax Rates of: City \$0.425/\$100 County \$0.425/\$100			

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: D
PRIVATE DEVELOPMENT (With TIRZ)

YEAR	Dev Cum Value \$ K	* TIRZ Increment \$K	** BPP&I Cum Value \$K	INCOME TO	
				*** City, \$ K	**** County, \$K
2004	-	-	-	-	-
2005	15,800	-	2,730	-	-
2006	34,725	134	6,894	12	49
2007	42,575	295	9,356	22	113
2008	42,575	362	9,356	32	144
2009	42,575	362	9,356	32	144
2010	42,575	362	9,356	32	144
2011	42,575	362	9,356	32	144
2012	42,575	362	9,356	32	144
2013	42,575	362	9,356	32	144
2014	42,575	362	9,356	32	144
2015	42,575	362	9,356	32	144
2016	42,575	362	9,356	32	144
2017	42,575	362	9,356	32	144
2018	42,575	362	9,356	32	144
2019	42,575	362	9,356	32	144
2020	42,575	362	9,356	32	144
2021	42,575	362	9,356	32	144
2022	42,575	362	9,356	32	144
2023	42,575	362	9,356	32	144
2024	-	362	-	32	144
TOTAL	42,575	6,583	9,356	578	2,610
* Based on tax rate of \$0.425/\$100 valuation for City; and \$0.425/\$100 valuation for the County ** Based on BPP&I value at 22% of real property values. *** Based on tax rate of \$0.425/\$100 valuation on BPP&I values only. **** Based on tax rate of \$0.200/\$100 valuation for Real Property, and \$0.625/\$100 valuation on BPP&I values.					

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: E

BUILDOUT SCHEDULE (Without TIRZ)

YEAR	USE	SIZE K/Sq. Ft.	VALUE \$K
2006	Eatery	3	875
2007	Eatery	4	900
2009	Grocery	66	8,550
2011	Retail	12	1,500
	Retail	15	1,750
2013	Gas Station	5	1,250
2014	Bank	9	1,350
2015	Eatery	4	800
	Eatery	8	1,200
2016	Pharmacy	16	2,150
2017	Retail	22	3,350
2018	Larger Retail	38	4,000
2019	Eatery	6	850
2020	Theatre	18	3,300
2021	Motel & Eatery	14	2,250
	TOTAL	240	34,075
Note: Same uses and sizes as provided by Developer. Schedule of completion delayed.			

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: F
DEVELOPMENT VALUE (Without TIRZ)

YEAR	DEVELOPMENT VALUE, \$K	DEVELOPMENT CUM. VALUE \$K	NO TIRZ FUND \$K
2004	-	-	
2005	-	-	
2006	875	875	
2007	900	1,775	
2008	-	1,775	
2009	8,550	10,325	
2010	-	10,325	
2011	3,250	13,575	
2012	-	13,575	
2013	1,250	14,825	
2014	1,350	16,175	
2015	2,000	18,175	
2016	2,150	20,325	
2017	3,350	23,675	
2018	4,000	27,675	
2019	850	28,525	
2020	3,300	31,825	
2021	2,250	34,075	
2022	-	34,075	
2023	-	34,075	

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: G
PRIVATE DEVELOPMENT (Without TIRZ)

YEAR	Dev Cum Value \$ K	NO TIRZ Increment \$K	* BPP&I Cum Value \$K	INCOME TO	
				** City, \$ K	*** County, \$K
2004	-		-	-	-
2005	-		-	-	-
2006	875		193	5	7
2007	1,755		391	9	14
2008	1,755		391	9	14
2009	10,325		2,272	54	79
2010	10,325		2,272	54	79
2011	13,575		2,983	70	103
2012	13,575		2,983	70	103
2013	14,825		3,258	77	113
2014	16,175		3,555	84	123
2015	18,175		3,994	94	139
2016	20,325		4,466	105	155
2017	23,675		5,203	123	180
2018	27,675		6,082	143	211
2019	28,525		6,268	148	217
2020	31,825		6,994	165	243
2021	34,075		7,488	177	260
2022	34,075		7,488	177	260
2023	34,075		7,488	177	260
TOTAL	34,075		7,488	1,741	2,560
* Based on BPP&I value at 22% of real property values. ** Based on tax rate of \$0.425/\$100 valuation on all values. *** Based on tax rate of \$0.625/\$100 valuation on all values.					

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: H
SALES TAX INCOME (Without TIRZ)

YEAR	SALES TAX WITH TIRZ, \$K		SALES TAX WITHOUT TIRZ, \$K	
	City	County	City	County
2004	-	-	-	-
2005	-	-	-	-
2006	126	42	23	8
2007	452	151	53	18
2008	519	173	53	18
2009	519	173	179	60
2010	519	173	179	60
2011	519	173	179	60
2012	519	173	179	60
2013	519	173	187	62
2014	519	173	206	69
2015	519	173	296	99
2016	519	173	326	109
2017	519	173	326	109
2018	519	173	326	109
2019	519	173	371	124
2020	519	173	405	135
2021	519	173	432	144
2022	519	173	432	144
2023	519	173	432	144
TOTAL	8,882	2,961	4,584	1,532

Note—Sales Tax Based On: 1 ½ % for City ½% for County

\$500/ Sq. Ft. Sales For Eateries

\$128 /Sq. Ft. Sales For All Others

Anticipated sales tax income from duplicate retail eliminated. No increase after buildout.

FINANCE PLAN: EXHIBIT D—Feasibility Analysis

Feasibility Analysis Exhibit: I
SUMMARY OF TAX INCOME - SK

CITY	WITH TIRZ	WITHOUT TIRZ
Real Property, BPP&I	578	1,741
Sales (1 ½ %)	8,882	4,584
TOTAL	9,460	6,325

COUNTY		
Real Property, BPP&I	2,610	2,560
Sales (½ %)	2,961	1,532
TOTAL	5,571	4,092

*In addition to the 'With TIRZ' amounts above,
\$6,583 flows to TIRZ Fund.*

863

CITY OF HUNTSVILLE, TEXAS
 Planning & Development
 448 State Hwy. 75 North
 Huntsville, Texas 77320

THE STATE OF TEXAS §

COUNTY OF WALKER §

I, Leonard E. Woods, Registered Professional Land Surveyor No. 2524, do hereby certify that this document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

TAX INCREMENT REINVESTMENT ZONE NUMBER ONE

Being a parcel of land containing approximately 805 acres, within the corporate limits of the City of Huntsville, situated in the LEWIS COX LEAGUE, Abstract No. 13, the PLEASANT GRAY LEAGUE, Abstract No. 24, the J. W. ADAMS SURVEY, Abstract No. 62, the PETER TUMLINSON LABOR, Abstract No. 539 and the JESSE YOUNG LABOR, Abstract No. 618, Walker County, Texas, said parcel being more particularly described by metes and bounds as follows;

BEGINNING in the southwest right-of-way line of Interstate Highway No. 45 at the most northerly corner of Lot 1 of West Hill Park, Section 4 as shown on a Plat recorded in Volume 3, page 146, Plat Records of Walker County, Texas;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45 and the northeast lines of Lots 1, 2, 4 and 3 of said West Hill Park, Section 4 to the east corner of said Lot 3;

THENCE S 70°06'59"W- 642.13 feet (Plat Call) to the most northerly northeast corner of Reserve "A" of said West Hill Park, Section 4 and the northwest corner of a called 3.636 acre tract described in a Deed to Boxcars Properties, LTD recorded in Volume 376, page 853, Official Public Records of Walker County, Texas;

THENCE S 22°18'40"E (Plat Call), with a west line of said Boxcars Properties, LTD tract, a distance of 355.65 feet (Plat Call) to the its southwest corner and a reentrant corner of said Reserve "A";

THENCE N 67°20'13"E (Plat Call), with the most easterly north line of said Reserve "A", a distance of 707.44 feet (Plat Call) to the most easterly northeast corner of said Reserve "A" in the southwest right-of-way line of Interstate Highway No. 45;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45 to the northeast corner of Lot 1 (1.9495 acre) of Parkwood Square as shown on a Plat recorded in Volume 3, page 77, Plat Records;

THENCE EASTERLY, with the north lines of said Lot 1 of Parkwood Square to its northwest corner in the east right-of-way line of West Hill Park Circle as shown on a Plat of West Hill Park recorded in Volume 2, page 189, Plat Records;

THENCE SOUTHERLY, with the east right-of-way line of said West Hill Park Circle, to a point in the north right-of-way line of State Highway No. 30;

THENCE WESTERLY, with the north right-of-way line of State Highway No. 30, to its intersection with the west right-of-way line of said West Hill Park Circle;

THENCE NORTHERLY, with the west right-of-way line of said West Hill Park Circle to a point on the north side of a Cull 'D Sac of said West Hill Park Circle and being a easterly corner of Lot 3 (1.85 acres) and a southerly corner of "Unrestricted Reserve" as shown on said Plat of West Hill Park;

EXHIBIT "A"

Page 1 of 4

Tax Increment Reinvestment Zone Number One
City of Huntsville
Walker County, Texas

Page 2

THENCE N 31°31'43"W (Plat Call), with the common lines of said Lot 3 and Unrestricted Reserve of said West Hill Park, a distance of 177.46 feet (Plat Call) to the northeast corner of said Lot 3;

THENCE S 87°33'10"W (Plat Call), continuing with the common line of said Lot 3 and Unrestricted Reserve, a distance of 148.00 feet (Plat Call) to the northwest corner of said Lot 3 in the east line of a called 6.71 acre tract described in a Deed to Brazos-Huntsville, LP recorded in Volume 180, page 139, Deed Records of Walker County, Texas;

THENCE NORTHERLY, with the east line of said Brazos-Huntsville, LP tract, to its northeast corner;

THENCE WESTERLY, with the north line of said Brazos-Huntsville, LP tract, to its northwest corner;

THENCE SOUTHERLY, with the west line of said Brazos-Huntsville, LP tract, to its southwest corner in the north right-of-way line of State Highway No. 30;

THENCE WESTERLY, with the north right-of-way line of State Highway No. 30, to the southeast corner of Reserve "A" (8.91 acres) as shown on a Plat of West Hill Park, Phase 1 - Section 2 recorded in Volume 3, page 53, Plat Records;

THENCE SOUTHERLY, across State Highway No. 30, to the northwest corner of Lot 1, Block 1 (20.3565 acres) of West Hill Subdivision, Section One as shown on a Plat recorded in Volume 1, page 185, Plat Records, said corner being in the east right-of-way of Veterans Memorial Parkway (called West Hills Drive on said Plat recorded in Volume 1, page 185, Plat Records);

THENCE SOUTHERLY, with the east right-of-way of Veterans Memorial Parkway, to its intersection with the north right-of-way of Col. Etheredge Boulevard (called Commerce Drive on said Plat recorded in Volume 1, page 185, Plat Records);

THENCE NORTHEASTERLY, with the north right-of-way of Col. Etheredge Boulevard; to its intersection with the east right-of-way line of Financial Plaza as shown on said Plat recorded in Volume 1, page 185, Plat Records;

THENCE SOUTHEASTERLY, with the east right-of-way line of Financial Plaza, to the southwest corner of Lot 8 (0.44 acre) of a Replat of West Hill Subdivision, Section 1, Block 5 as shown on a Plat recorded in Volume 4, page 23, Plat Records, said corner being in the north line of called 248.02 acre tract described in a Deed to Sam Dominey recorded in Volume 90, page 488, Official Public Records;

THENCE EASTERLY, with the north line of said Dominey tract, to its northeast corner in the west line of Lot 2A (26.70 acres) of Replat of Lot 2A, Sundance Ranch, Section One as shown on a Plat recorded in Volume 3, page 76, Plat Records;

THENCE SOUTHERLY, with the east line of said Dominey tract and the west line of said Lot 2A, approximately 47 feet to the southwest corner of said Lot 2A and the northwest corner of a called 32.2328 acre tract described in a Deed to MNC Realty, LP recorded in Volume 456, page 155, Official Public Records;

THENCE N 86°17'30"W (Plat Call), with the south line of said Lot 2A and the north line of said MNC Realty, LP tract, a distance of 1563.49 feet (Plat Call) to the southeast corner of said Lot 2A and the northeast corner of said MNC Realty, LP 32.2328 acre tract in the southwest right-of-way line of Interstate Highway No. 45;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45, crossing Smither Drive, to its intersection with the northwest line of a called 80 acre tract described in a Deed to Sam Houston State Teachers College recorded in Volume 55, page 547, Deed Records, said point being also the most easterly corner of a called 125.35 acre tract described in a Deed to John W. Amick recorded in Volume 200, page 518, Official Public Records;

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Tax Increment Reinvestment Zone Number One
City of Huntsville
Walker County, Texas

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THENCE EASTERLY, across Interstate Highway No. 45, to the south corner of a called 1.92 acre tract described in a Deed to W.T. and H.Y. Robinson recorded in Volume 172, page 174, Deed Records;

THENCE N 60°43'E (Deed Call), with the southeast line of said Robinson 1.92 acre tract, a distance of 563.3 feet (Deed Call) to its east corner and the most westerly corner of a called 1.92 acre tract described in a Deed to the State of Texas recorded in Volume 171, page 374, Deed Records;

THENCE N 60°43'E (Deed Call), with the northwest line of said State of Texas 1.92 acre tract, a distance of 74.8 feet (Deed Call) to an angle corner;

THENCE N 05°24'E (Deed Call), with the west line of said State of Texas 1.92 acre tract, a distance of 94.6 feet (Deed Call) to its north corner;

THENCE S 64°25'E (Deed Call), with the north or northeast line of said State of Texas 1.92 acre tract, to the southeast corner of a called 0.466 acre tract described in a Deed to Bradley K. Alford recorded in Volume 451, page 551, Official Public Records, a 6" diameter steel fence corner post (Deed Call);

THENCE N 18°10'E (Deed Call), with the east line of said Alford 0.466 acre tract, a distance of 270.50 feet (Deed Call) to its northeast corner on the south line of 25th Street and in the east line of Sam Houston State University property;

THENCE SOUTHEASTERLY, across Sam Houston State University property, to the north corner of Yoakum Ridge subdivision recorded in Volume 1, page 29, Plat Records, a point on the southeast side of Avenue M (formerly Aberdeen Drive);

THENCE SOUTHWESTERLY, with the southeast right-of-way line of Avenue M, to its intersection with the northeast right-of-way of Interstate Highway No. 45;

THENCE SOUTHWESTERLY, across Interstate Highway No. 45, to the north corner of Goldenheaded Cane Associates, LTD 3.894 Acre Tract subdivision as shown on a Plat recorded in Volume 3, page 97, Plat Records, said corner being in the southeast line of said Sam Houston State Teachers College 80 acre tract;

THENCE SOUTHWESTERLY, with the southeast line of said Sam Houston State Teachers College 80 acre tract and the northwest line of said 3.894 Acre Tract as follows:

- (1) S 35°53'58"W- 128.54 feet (Plat Call)
- (2) (2) S 32°24'05"W- 297.33 feet (Plat Call)

and (3) S 31°46'03"W- 277.51 feet (Plat Call) to the west corner of said 3.894 Acre Tract and the north corner of a called 2.29 acre tract described in a Deed to Paul Vilardi, Trustee, et al recorded in Volume 353, page 458, Deed Records;

THENCE SOUTHWESTERLY, continuing with the southeast line of said Sam Houston State Teachers College 80 acre tract to its south corner in the east line of a called 105.13 acre tract described in a Deed to Sam Houston Normal Institute recorded in Volume 50, page 145, Deed Records;

THENCE S 01°55'E- 68 varas (Deed Call) to the southeast corner of said Sam Houston Normal Institute 105.13 acre tract;

THENCE S 87°50'W (Deed Call), with the south line of said Sam Houston Normal Institute tract, crossing Veterans Memorial Parkway, a distance of 1166.2 varas (Deed Call) to an angle corner;

THENCE N 57°30'W (Deed Call), with the southwest line of said Sam Houston Normal Institute 105.13 acre tract, a distance of 346.3 varas (Deed Call) to the west corner of same and being the south corner of said Sam C. Dominey 248.20 acre tract;

THENCE with the southwest and west lines of said Dominey 248.20 acre tract as follows:

- (1) N 48°28'40"W- 715.72 feet (Deed Call)
- (2) N 22°44'37"E- 663.18 feet (Deed Call)

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Tax Increment Reinvestment Zone Number One
City of Huntsville
Walker County, Texas

Page 4

(3) S 86°52'45"W- 510.44 feet (Deed Call)

and (4) N 02°27'14"W- 4709.44 feet (Deed Call) to the northwest corner of said Dominey 248.20 acre tract and the southwest corner of said West Hill Subdivision, Section One;

THENCE N 02°36'55"E (Plat Call), with the west line of said West Hill Subdivision, Section One, a distance of 1995.58 feet (Plat Call) to its northwest corner in the south right-of-way line of State Highway No. 30;

THENCE N 86°44'46"E (Plat Call), with the north line of said West Hill Subdivision, Section One and the south right-of-way line of State Highway No. 30, a distance of 200.00 feet (Plat Call) to the west right-of-way line of Veterans Memorial Parkway;

THENCE NORTHERLY, across State Highway No. 30, to the southeast corner of Lot 1 as shown on said Plat of West Hill Park, Phase 1 - Section 2 recorded in Volume 3, page 53, Plat Records, said corner being also in the west right-of-way line of Veterans Memorial Parkway, formerly called West Hills Drive on said Plat recorded in Volume 3, page 53, Plat Records;

THENCE NORTHERLY, with the east line of said Lot 1 and the west right-of-way line of Veterans Memorial Parkway, to the northeast corner of said Lot 1;

THENCE WESTERLY, with the north lines of said Lot 1, to its northwest corner, said corner being also the most westerly southwest corner of said Reserve "A" of West Hill Park, Phase 1 - Section 2;

THENCE N 07°55'42"W (Plat Call), with the most northerly west line of said Reserve "A", to its northwest corner in the south line of a tract owned by the State of Texas and part of the Texas Department of Criminal Justice "Wynne Farm";

THENCE N 87°23'57"E (Plat Call), with the common line of said Reserve "A" and T.D.C.J. "Wynne Farm" to the west right-of-way of Veterans Memorial Parkway and the southwest corner of a called 1.907 acre tract described in an Easement to the City of Huntsville, a concrete monument (Deed Call);

THENCE N 02°32'59"W (Deed Call), with the west right-of-way of Veterans Memorial Parkway and the west line of said City of Huntsville 1.907 acre Easement tract, a distance of 2080.30 feet (Deed Call) to its northwest corner in the southwest right-of-way line of Interstate Highway No. 45;

THENCE SOUTHEASTERLY, with the southwest right-of-way line of Interstate Highway No. 45, to the POINT OF BEGINNING.

Signed

Leonard E. Woods

Leonard E. Woods

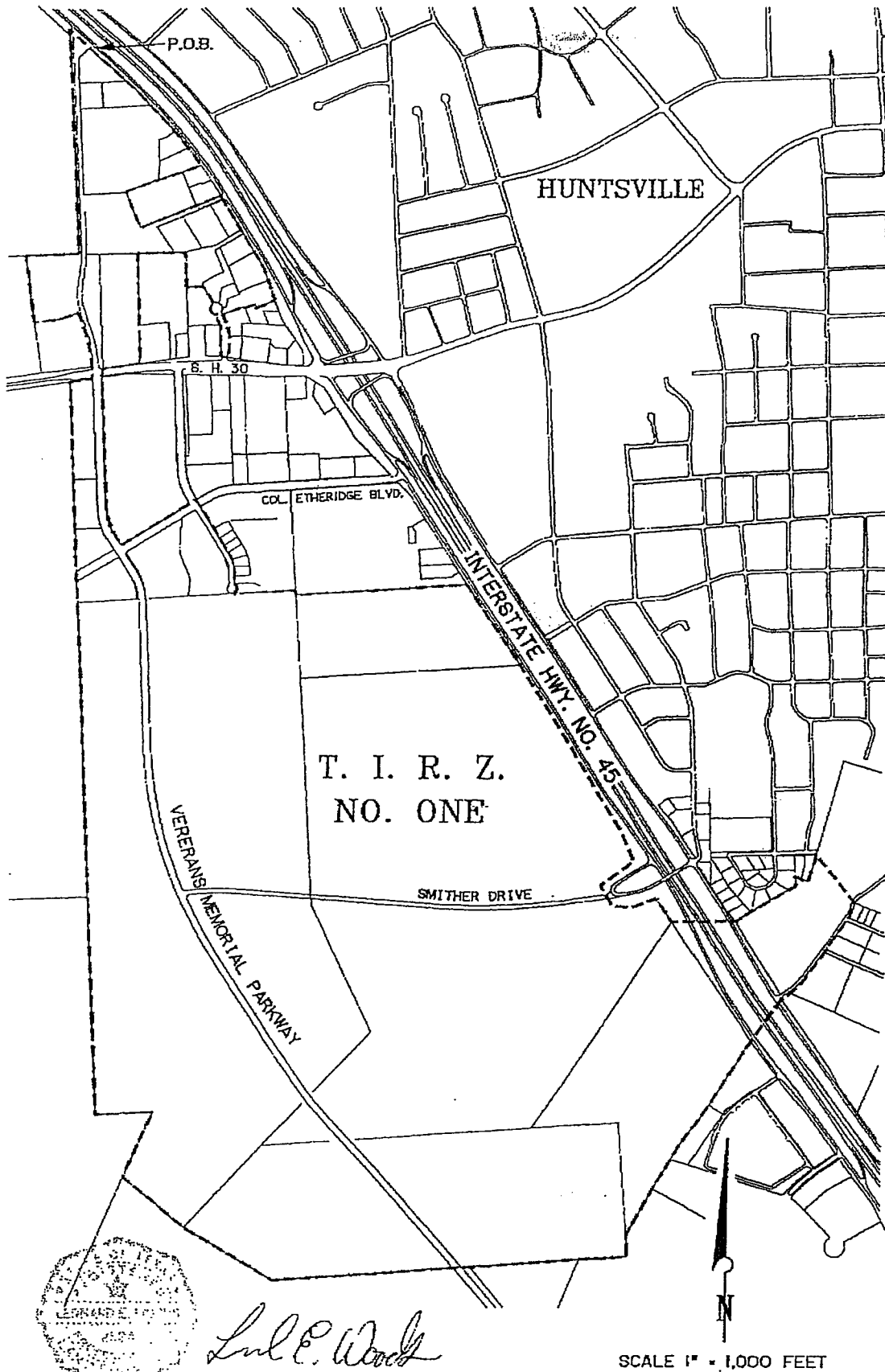
Reg. Prof. Land Surveyor No. 2524

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EXHIBIT "A"

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TAX INCREMENT REINVESTMENT ZONE NUMBER ONE

EXHIBIT B

5007-19

CITY OF HUNTSVILLE TIRZ#1
DEVELOPMENT AGREEMENT FOR
RAVENWOOD VILLAGE PROJECT

STATE OF TEXAS

§

COUNTY OF WALKER

§

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the City of Huntsville, a Texas municipal corporation of Walker County, Texas (hereinafter called "City"), and Ravenwood Village, Ltd., a Texas limited partnership (hereinafter called "Developer").

WHEREAS, the City recognizes the importance of its continued role in local economic development and, in accordance with the provisions of the Tax Increment Financing Act, Texas Tax Code, Chapter 311 ("Act") on August 3, 2004, the Huntsville City Council approved Ordinance No. 2004-008-03.1, creating, establishing and designating "Tax Increment Reinvestment Zone Number One, City of Huntsville" (hereinafter called the "TIF District"); and

WHEREAS, the Developer owns two tracts of land that contain a total of 120.00 acres of land, more or less, such combined tracts of land being more particularly described in Exhibit A attached hereto (the "Property"). The Property is situated within and is part of the TIF District; and

WHEREAS, Developer intends to develop the Property as a multi-use development to be known as Ravenwood Village that is proposed to include residential and retail uses and shall include a Target retail store as an anchor tenant, together with ancillary uses and improvements. A concept plan for the development is marked as Exhibit B and attached hereto; and

WHEREAS, the Act authorizes the expenditure of funds derived within a reinvestment zone for the payment of expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred for public work and public improvements consistent with the project plan of the reinvestment zone, which expenditures and monetary obligation constitute project costs, as defined in the Act; and

WHEREAS, on April 24, 2007, the Huntsville City Council approved the Tax Increment Reinvestment Zone Project Plan attached hereto as Exhibit C ("Project Plan"), and the Financing Plan attached hereto as Exhibit D ("Financing Plan"); and

WHEREAS, on April 24, 2007, the City Council authorized the execution of this Agreement for the construction of public improvements in accordance with the approved Project Plan and Financing Plan, wherein

Developer shall design and construct public improvements and authorizing payment to Developer from the tax increment on the Property to be deposited in a sub-account of the TIF District Tax Increment Fund (the "Tax Increment Fund") for the costs of the public improvements under the conditions set forth herein; and

WHEREAS, the Public Improvements constructed within the TIF District boundaries, as set forth in this Agreement, are consistent with encouraging development of the TIF District in accordance with the purposes for its creation and are in compliance with the ordinance creating such reinvestment zone adopted by the City and all applicable laws; and

WHEREAS, Developer and City have agreed that following completion and acceptance of any Phase of the Public Improvements, and subject to the rights of the Developer with respect to payment to Developer of the Project Costs of such Phase as hereinafter provided, Developer shall convey the Phase of the Public Improvements to City in the manner contemplated by the Act; and

WHEREAS, Payment to Developer of Project Costs of the Public Improvements as contemplated herein is consistent with and described in the Project Plan and Financing Plan; and

NOW, THEREFORE, is consideration of the mutual covenants and obligations herein, the parties agree as follows:

SECTION 1. DEFINITIONS

As used in this Agreement, the following terms shall have the respective meanings set forth below:

- A. City Manager shall mean the City Manager of City or his designee.
- B. Completion shall mean completion and acceptance of any Phase of the Public Improvements substantially in accordance with the plans and specifications for such Phase as certified by City's Engineer and accepted by the City Manager.
- C. Interim Construction Loan shall mean a loan or loans obtained by Developer (1) before construction of a Phase or Phases, and (2) for a term of not more than three years, the proceeds of which are used to pay Project Costs.
- D. Lender shall mean collectively any Property Lender or Project Costs Lender, but shall not include Developer, or an entity owned or controlled by them.
- E. Long Term Loan shall mean a loan or loans obtained by Developer (1) after construction of a Phase of the Public Improvements, and (2) for a term of more than three years (3) that is used to pay off an Interim Construction Loan and provide long term financing of Project Costs.

- F. Phase shall mean any part of the Public Improvements for which, from time to time, Developer elects to submit Plans pursuant to Section 3C of this Agreement and is approved by the City.
- G. Prime Rate shall mean the rate of interest published as the "Prime Rate" in the "Money Rate" table of the most recently published issue to The Wall Street Journal.
- H. Property Lender shall mean a Lender providing a loan to Developer which is secured by a lien on the Property or a portion thereof.
- I. Project Costs Lender shall mean a Lender providing an Interim Construction Loan or Long Term Loan to Developer.
- J. Public Improvements shall mean public improvements constructed by Developer in accordance with Exhibit E that are in accordance with the approved Project Plan and Financing Plan.
- K. Project Engineer shall mean the licensed engineering firm designated by Developer as Developer's engineer from time to time.
- L. Project Costs shall include, without limitation, all reasonable and necessary costs and expenses incurred by Developer in connection with the design, construction and installation of the Public Improvements, including, without limitation, construction costs and expenses, engineering fees and expenses, construction management fees and costs of permits, approvals, bonds and insurance, and shall also include Interest Expenses (as defined and limited herein) and other costs related to payment for construction of the Public Improvements, but shall not include the cost of any easements and rights-of-way within the Property that are customarily dedicated to City at no cost by developers of subdivisions, but may include any costs of acquisition of any necessary offsite easements or rights-of-way that are within the TIF District. The aforesaid costs and expenses shall be paid only to the extent they qualify as Project Costs as defined in the Act.
- M. Tax Increment Fund shall mean the tax increment fund of the TIF District that is established pursuant to §311.013 of the Act.
- N. The Cap shall mean \$8,000,000, the maximum amount of Project Costs, including interest cost, that City will be obligated to pay to Developer under this Agreement.
- O. TIF Revenues shall mean an amount equal to the Tax Increment paid into the Tax Increment Fund of the TIF District, as provided in Section 311.013 of the Act, in each tax year during the term of the TIF District from ad valorem taxes levied on the Property and improvements therein by the City and other taxing entities that have signed agreements to participate in the TIF District.
- P. Tax Increment shall mean the tax increment on the Property, determined as provided in Section 311.012 of the Act, using the \$373,200⁰⁰

appraisal value of the Property on January 1, 2004 (the year in which the TIF District was designated under the Act), as the base year.

- Q. Ravenwood Village Sub-Account shall mean a sub-account of the Tax Increment Fund into which all TIF Revenues from the Property shall be deposited.
- R. Interest Expenses shall mean simple interest on Developer's expenditures for Project Costs, computed from the date of the expenditure until reimbursed to the Developer hereunder a rate equal to the lesser of either (i) the Developer's actual cost of funds, or (ii) the Prime Rate, plus three percentage points.

SECTION 2. REPRESENTATIONS AND WARRANTIES; COOPERATION

- A. Developer hereby represents and warrants to City that (1) Developer has full lawful right, power and authority to execute and deliver and perform the terms and obligations of this Agreement and (2) that the execution and delivery of this Agreement has been duly authorized by all necessary official action by the Developer and (3) this Agreement constitutes a legal, valid and binding obligation of Developer, and is enforceable in accordance with its terms and provisions.
- B. Whenever under the provisions of this Agreement and other related documents and instruments or any supplemental agreements, any request, demand, approval, notice or consent of the City or Developer is required, or whenever City or Developer is required to agree or to take some action at the request of the other, such request, demand, approval, notice or consent, or agreement shall be in writing and shall be given for City, unless otherwise provided herein, by the City Manager or his designated representative and for Developer by the President or any officer of Developer so authorized (and, in any event, the officers executing this Agreement are so authorized); and either party hereto shall be authorized to act in reliance upon any such request, demand, approval, notice or consent, or agreement.

SECTION 3. PUBLIC IMPROVEMENTS AND DEVELOPER'S OBLIGATIONS

- A. Developer shall, at its sole cost and expense, design, construct and install, within the time provided in this Agreement, the Public Improvements as shown on Exhibit E. Any Public Improvement undertaken by Developer shall be designed, constructed and installed in a good and workmanlike manner in accordance with all applicable laws, statutes and ordinances, rules and regulations of City and any other governmental authority having jurisdiction, including, without limitation, the City Transportation Plan, the City Development Code and the City Subdivision Design Standards.

- B. Except as expressly provided in Exhibit C, Public Improvements shall be located entirely within the city limits of City and within the TIF District and all Public Improvements shall be constructed and installed within existing or future public rights-of-way, easement or parks.
- C. Developer shall submit plans and specifications for each Phase of the Public Improvements to City for review and approval prior to the commencement of any construction. Such plans and specifications shall be prepared by the Project Engineer and shall be in conformance with City design standards. Such approval shall not be unreasonably withheld, conditioned or delayed by City.
- D. Developer shall present a final subdivision plat of the Property for approval by City in accordance with the City's Subdivision Ordinance and state law. Developer shall also execute a "Developer's Agreement" concerning the installation of community facilities in the subdivision in accordance with the Subdivision Ordinance. The "Developer's Agreement" shall be in force in addition to the present Agreement, however, the "Developer's Agreement" shall not contain any provision inconsistent with provisions of this Agreement and in the event of any conflict the terms of this Agreement regarding financing shall control. Nothing in this Agreement shall be construed to waive any requirements included in the Developer's Agreement.
- E. The Public Improvements shall be constructed in such Phases and in such sequence as Developer shall in its judgment determine. Developer shall submit plans for the initial Phase of Public Improvements to City for approval within twelve (12) months from the date of this Agreement. Subject to Force Majeure as provided in Section 5 hereof, Developer shall diligently pursue construction of the initial Phase of Public Improvements to Completion within twelve (12) months after approval of the plans by the City.
- F. Developer shall obtain and maintain or cause its contractors and/or subcontractors to obtain and maintain in full force and effect during the time that any Public Improvements are being constructed or installed by Developer under this Agreement the amounts and types of insurance and bonds that are required by City's codes and ordinances.
- G. Whenever Developer has completed a Phase of the Public Improvements, Developer shall give written notice to City, which notice shall be accompanied by (1) the City's Engineer's certification that such Phase of the Public Improvements has been substantially completed in accordance with the plans and specifications and (2) the Developer's certification of the Project Costs incurred by Developer in completing such Phase. Developer's certification shall include substantiation of such Project Costs in such reasonable detail as the City may reasonably request.
- H. Following Completion of each Phase, and payment to Developer of all Project Costs relating to such Phase, Developer shall convey the Public

Improvements comprising such Phase to City free and clear of all liens, save the lien of the Developer for payment under this Agreement. A conveyance to City shall be evidenced by the Plat filed for the Development, and by any other instrument which City may reasonably request, and shall include an assignment of all contractor's warranties, if any, and all performance, payment and maintenance bonds. Prior to acceptance of such conveyance to City, Developer shall provide City with releases from the contractors, subcontractors and suppliers of materials who have provided labor and materials for the Phase.

- I. Developer shall cause a Target retail store to be constructed and open in the first Phase as an anchor for Ravenwood Village as a material consideration for this Agreement.

SECTION 4. CITY PARTICIPATION AND PAYMENT PROCEDURES

- A. Subject to and in accordance with the terms of this Agreement, City agrees to promptly deposit or cause to be deposited into the Ravenwood Village Sub-Account of the Tax Increment Fund one hundred percent (100%) of the TIF Revenues collected by City with respect to the Property and the TIF Revenues collected with respect to the Property by other taxing entities that participate in the TIF District and are received by City under agreements between City and such other entities, and to disburse such TIF Revenues so deposited to pay Project Costs for any Phase in an amount equal to the actual Project Costs for each such Phase, such disbursements to be made by City at the times and in the manner provided herein; provided that no additional payments shall be made once the total payments under this Agreement equal the Cap. The Cap has been established based on the anticipated scope of the Public Improvements based on Developer's current estimate of the cost of the Public Improvements. The cost estimates are estimates only and the actual costs may vary, however, the amount of the Cap shall not change. Except when delayed by Force Majeure as provided in Section 6 hereof, and subject to the provisions of Section 4B hereof, City shall make such payments to Developer for Project Costs for any Phase as to which Completion has occurred on an annual basis on June 1 of each year to the extent of the sums available in the Ravenwood Village Sub-Account until the Project Costs payable to Developer under this agreement have been paid in full or until the expiration of this Agreement as provided in Section 6 below. All payments hereunder are subject to the availability of TIF Revenues in the Ravenwood Village Sub-Account on June 1. Any payments of Project Costs under Section 4B may be made on dates other than June 1.
- B. City may, at its sole discretion, prepay Project Costs from any lawful source in any amount at any time without penalty or premium. Nothing in this Section 4.B. creates an obligation of City or entitles Developer to an expectation of any prepayment of any amount due under this Agreement.

- C. City shall disburse all TIF Revenues from the Ravenwood Village Sub-Account in the TIF Fund to pay Project Costs to Developer until all Project Costs have been paid, subject to the limitations provided herein, or until the expiration of the TIF District. In no event, however, shall the amount paid to Developer hereunder ever exceed the Cap.
- D. In addition to the certifications of Developer under Section 3 above, to determine the Project Costs, City shall have the right to inspect the site during construction, and any and all records of Developer, Developer's agents, employees, contractors or subcontractors and shall have the right to require Developer to submit any necessary information, documents, invoices, receipts or other records to verify the actual cost of constructing the Public Improvements. Upon reasonable advance notice and during normal business hours, the City may examine Developer's books and records relating to Project Costs. Acceptance of the Public Improvements and verification of Project Costs by the City may not be unreasonably withheld, conditioned or delayed.
- E. Developer agrees to look solely to the TIF Revenues on deposit in the Ravenwood Village Sub-Account, not City's general funds or other City funds, for payment of Project Costs. Nothing in this Agreement shall be construed to require City to approve payments from any source of City funds other than TIF Revenues on deposit in the Ravenwood Village Sub-Account. Upon the expiration of the term of the TIF District as provided in the ordinance creating same, as amended, any of the Project Costs owed to Developer under this Agreement that remain unpaid, due to the lack or unavailability of TIF Revenues within the Ravenwood Village Sub-Account, or due to Developer's failure to meet any precondition of payment under this Agreement, shall no longer be considered part of the Project Costs, and any obligation of City to pay such amount from TIF revenues shall expire (except as modified by Section 6(3), below). Any TIF Revenues, which have accrued on the Property during the term of the TIF District, but are collected subsequent to the date the TIF District expires, shall be applied toward the payment of any part of the Project Costs that then remains unpaid. After such payments, City shall be released from any further liability or obligation to pay Developer under this Agreement.
- F. City shall maintain complete books and records showing all deposits to and disbursements from the Tax Increment Fund and the Ravenwood Village Sub-Account, which books and records shall be deemed complete if kept in accordance with generally accepted accounting principles as applied to Texas municipalities and in accordance with the provisions of the Act. Such books and records shall be available for examination by the duly authorized officers or agents of Developer during normal business hours upon requests made not less than 10 business days prior to the date of such examination. City shall maintain such books and records

throughout the term of this Agreement and for four years thereafter, all subject to the requirements of the Act.

- G. City hereby declares that the Public Improvements contemplated by this Agreement are necessary and desirable to implement the Project Plan.
- H. So long as any Project Costs have not been paid to Developer, City covenants and agrees (i) not to issue any bonds secured by the past, present or future TIF Revenues from the Property for any purposes other than payment of Project Costs; (ii) not to pledge the past, present, or future TIF Revenues from the Property for any purpose other than payment of Project Costs; and (iii) except as specifically provided in Section 4C, not to use sums deposited or to be deposited into the Ravenwood Village Sub-Account for any purposes other than payment of Project Costs.
- I. Except as provided in Section 4H, City reserves the right to issue Bonds secured by Tax Increment Revenues of the TIF District for any purpose authorized by the Act.
- J. Developer is aware City and County have in effect an additional sales and use tax of one-half of one percent ($\frac{1}{2}\%$) each to be used to reduce the property tax rate. This additional sales and use tax will affect property tax revenue generated from the Property.

SECTION 5. FORCE MAJEURE

It is expressly understood and agreed that if Completion of any Phase is delayed by reason of war, civil commotion, acts of God, inclement weather, governmental restrictions, regulations, or interferences, delays caused by utility providers, fire or other casualty, court injunction, necessary condemnation proceedings, acts of the other party, or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period shall be extended for a period of time equal to the period such party was delayed.

SECTION 6. TERM

The term of this Agreement shall begin on the date of execution, and shall terminate upon the earlier of: (1) the complete performance of all obligations and conditions by the parties to this Agreement; (2) the failure of Developer to submit plans for the initial phase of Public Improvements within twelve months from the date of execution of this Agreement; (3) the expiration of the term of the TIF District; provided, however, that the obligations of City to apply all TIF Revenues toward any unpaid part of the Project Costs shall survive as to any TIF Revenues accrued but not actually collected until subsequent to the expiration of the term of the TIF District; or (4) ten years without the completion of any Phase.

SECTION 7. DEFAULT AND REMEDIES

- A. In the event: (1) Developer fails to complete the initial Phase in accordance with the provisions of Section 3E of this Agreement, (2) Developer has delinquent ad valorem or sales taxes owed to the City (provided that Developer retains the right to timely and properly protest and/or contest any such taxes and during the pendency of such proceedings such taxes shall not be deemed delinquent); or (3) Developer breaches any of the terms and conditions of this Agreement, then Developer after the expiration of the notice and cure periods described herein, shall be in default of this Agreement. In the event of such a breach, City shall give Developer written notice of such breach, and if the Developer has not cured such breach within 30 days after receipt of such notice, this Agreement may be terminated by City by written notice to Developer.
- B. Upon the occurrence of any Event of Bankruptcy or Insolvency by Developer, this Agreement may be terminated by City by written notice to Developer; provided, however, such termination will not affect or terminate Developer's right hereunder to payment of Project Costs for any Phase as to which Completion has occurred prior to termination. For the purpose of this Section, "Event of Bankruptcy or Insolvency" shall mean the dissolution or termination of Developer's existence as a going business, insolvency, appointment of a receiver for any part of Developer's property and such appointment is not terminated within 90 days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Developer and such proceeding is not dismissed within 90 days after filing thereof.
- C. In the event City breaches any of the terms and conditions of this Agreement, then City after the expiration of the notice and cure periods described herein, shall be in default of this Agreement. In the event of such a breach, Developer shall give City written notice of such breach, and if the City has not cured such breach within 60 days after receipt of such notice, this Agreement may be terminated by Developer by written notice to City, or Developer shall have the right to exercise any and all rights available to such party at law or in equity, including the right to seek specific performance or such other equitable relief as injunction or mandamus to which Developer may be entitled.
- D. No waiver of any breach of any term or condition of this Agreement shall be construed to waive any subsequent breach of the same or any other term or condition of this Agreement.
- E. Notwithstanding the foregoing, any Lender shall have the right, but not the obligation, to cure any failure by Developer which if not cured within the applicable grace period, would give the City the right to terminate this

Agreement and City expressly agrees to accept such curative action by Lender.

SECTION 8. RIGHT OF OFFSET

City may, at its option, upon not less than thirty (30) days written notice to Developer, offset any amounts due and payable to Developer under this Agreement against any debt (including taxes on the Property, other than taxes relating to values under legitimate protest) lawfully due to City, or any other taxing unit participating in the payment of the Project Cost, from Developer regardless of whether the amount due arises pursuant to the terms of this Agreement or otherwise and regardless of whether or not the debt in question has been reduced to judgment by a court.

SECTION 9. VENUE AND GOVERNING LAW

This Agreement is performable in Walker County, Texas and venue of any action arising out of this Agreement shall be exclusively in Walker County, Texas. This Agreement shall be governed and construed in accordance with the law of the State of Texas.

SECTION 10. NOTICES

Any notice to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be (1) delivered personally, with a receipt requested therefore; or (2) sent by-telecoppy facsimile; or (3) sent by a nationally recognized overnight courier service; or (4) delivered by United States registered or certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the respective party at its address set forth below, and shall be effective (a) upon receipt or refusal if delivered personally or by telccopy facsimile; (b) one business day after depositing, with such overnight courier service or (c) three business days after deposit in the United State mail, if mailed. Any party hereto may change its address for receipt of notice by services of a notice of such change in accordance with this Section 11. All notices by telecopy facsimile shall be subsequently confirmed by U.S. certified or registered mail, return receipt requested.

If intended for City, to:

City Manager
City of Huntsville
1212 Avenue M
Huntsville, Texas 77340
Facsimile: (936) 291-5405

If intended for Developer, to:

Jay Williams, President
Ravenwood Village, Ltd.
c/o Property Commerce, Inc.
11000 Brittmoore Park Drive, Suite 100
Houston, TX 77041
Facsimile: (281) 668-3450

SECTION 11. GIFT TO PUBLIC SERVANT OR TO DEVELOPER REPRESENTATIVE

- A. Each party hereto represents to the other that it has not offered, conferred, or agreed to confer and that it will not offer, confer or agree to confer in the future any benefits upon an employee or official of the other party, other than to the extent an employee, partner or official of Developer indirectly benefits from this Agreement and/or the Property.
- B. For purpose of this section, "benefit" means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.
- C. Notwithstanding any other legal remedies, City may require Developer to remove any employee of Developer from the Ravenwood Village project who has violated the restrictions of this section or any similar state or federal law, and obtain reimbursement for any expenditures made to Developer as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

SECTION 12. BINDING AGREEMENT; ENCUMBRANCE OF PROPERTY

- A. The terms and conditions of this Agreement are binding upon and shall inure to the benefit of the successors and assigns of the parties hereto. This Agreement may not be assigned by Developer without the express written consent of City, which may be withheld at City's discretion, except that this Agreement may be assigned without consent of City (i) to a related or affiliated entity owned or controlled by Developer, provided such assignee expressly assumes all of the obligations and liabilities of Developer, or (ii) collaterally assigned to any Project Costs Lender as security for an Interim Construction Loan or Long Term Loan.
- B. Developer may have encumbered the Property, or may encumber the Property, by a deed of trust, mortgage or other security instrument, and is not required by this Agreement to obtain the written consent of City to do so. No such encumbrance shall, however, constitute a lien on any Public Improvements accepted by City. A Property Lender may do any act required of Developer to prevent the forfeiture of Developer's rights under this Agreement; and any such acts shall be as effective to prevent a forfeiture of Developer's rights under this agreement as if done by Developer.
- C. At any time, a Lender may notify City in writing that it has become a Property Lender or Project Cost Lender, as applicable, and furnish City with the address to which it wants copies of notices to be mailed or designate some person or corporation in the City of Huntsville, Texas, as its agent and representative for the purpose of receiving copies of notices. City must mail to Lender and to any agent or representative designated by Lender, at the addresses given, duplicate copies of all written notices that

City gives or serves on Developer under the terms of this Agreement after receiving such a notice from Lender.

- D. Lender may realize on the security afforded by the Property by exercising foreclosure proceedings or power of sale or any other remedy afforded in law or equity or by the security documents. To the extent this Agreement secures any obligations to a Project Costs Lender, a Project Costs Lender may, without the written consent of City, assume all of the obligations and liabilities of Developer hereunder; provided, however, that a Project Costs Lender that desires to assume the obligations and liabilities of Developer hereunder must sign a written agreement with the City to assume such obligations and liabilities and to be bound by this Agreement within thirty (30) days after realizing on the security afforded by the Property.

SECTION 13. INDEMNIFICATION

- A. DEVELOPER EXPRESSLY AGREES TO FULLY AND COMPLETELY DEFEND, INDEMNIFY, AND HOLD HARMLESS CITY, AND ITS OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY AND ALL CLAIMS, LAWSUITS, LIABILITIES, JUDGMENTS, COSTS, AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, DAMAGES OR LIABILITY FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ANY NEGLIGENT, GROSSLY NEGLIGENT, WRONGFUL, OR STRICTLY LIABLE ACT OR OMISSION OF THE DEVELOPER OR ITS AGENTS, EMPLOYEES, OR CONTRACTORS, ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT.
- B. Nothing in this paragraph may be construed as waiving any governmental immunity available to City under state law. This provision is solely for the benefit of Developer and City and is not intended to create or grant any rights, contractual or otherwise, in or to any other person.
- C. It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties. City, its past, present and future officers, elected officials, directors, employees and agents, do not assume any responsibility to any third party in connection with Developer's construction of the Public Improvements.

SECTION 14. MISCELLANEOUS

- A. Time is of the essence of this Agreement. The parties hereto will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.
- B. This Agreement is made subject to the provisions of the Charter and ordinances of City, as amended, and all applicable State and federal laws.
- C. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.
- D. Both parties have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.
- E. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

SECTION 15: ENTIRE AGREEMENT

This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement. Provided, however, the Parties acknowledge this Agreement is made in association with the *Performance Agreement Between the City of Huntsville, Texas and Property Commerce, Inc. for Ravenwood Village Development*, executed on the same date herewith, covering other matters relevant to the project which is subject of this Agreement; these Agreements should be considered in harmony with one another.

SIGNATORY PAGE
DEVELOPMENT AGREEMENT FOR
RAVENWOOD VILLAGE PROJECT

DEVELOPMENT AGREEMENT FOR RAVENWOOD VILLAGE PROJECT

SIGNATORY PAGE
DEVELOPMENT AGREEMENT FOR
RAVENWOOD VILLAGE PROJECT

EXECUTED on the 24 day of April, 2007 by City, signing by and through its City Manager, duly authorized to execute same by the City Council on February 20th, 2007 and Developer through its duly authorized officials.

APPROVED AS TO FORM:
Thomas Leeper

CITY OF HUNTSVILLE
Kevin P. Evans

By: Thomas Leeper
City Attorney

By: Kevin P. Evans
City Manager

RECOMMENDED BY DIRECTOR

By: _____

RAVENWOOD VILLAGE, LTD., a T
a Texas limited partnership

By its general partner RV-GP, LLC

By: Jay Williams
Name: Jay Williams
Title: Managing Member

ATTEST:
Danna Welter

By: Danna Welter
City Secretary

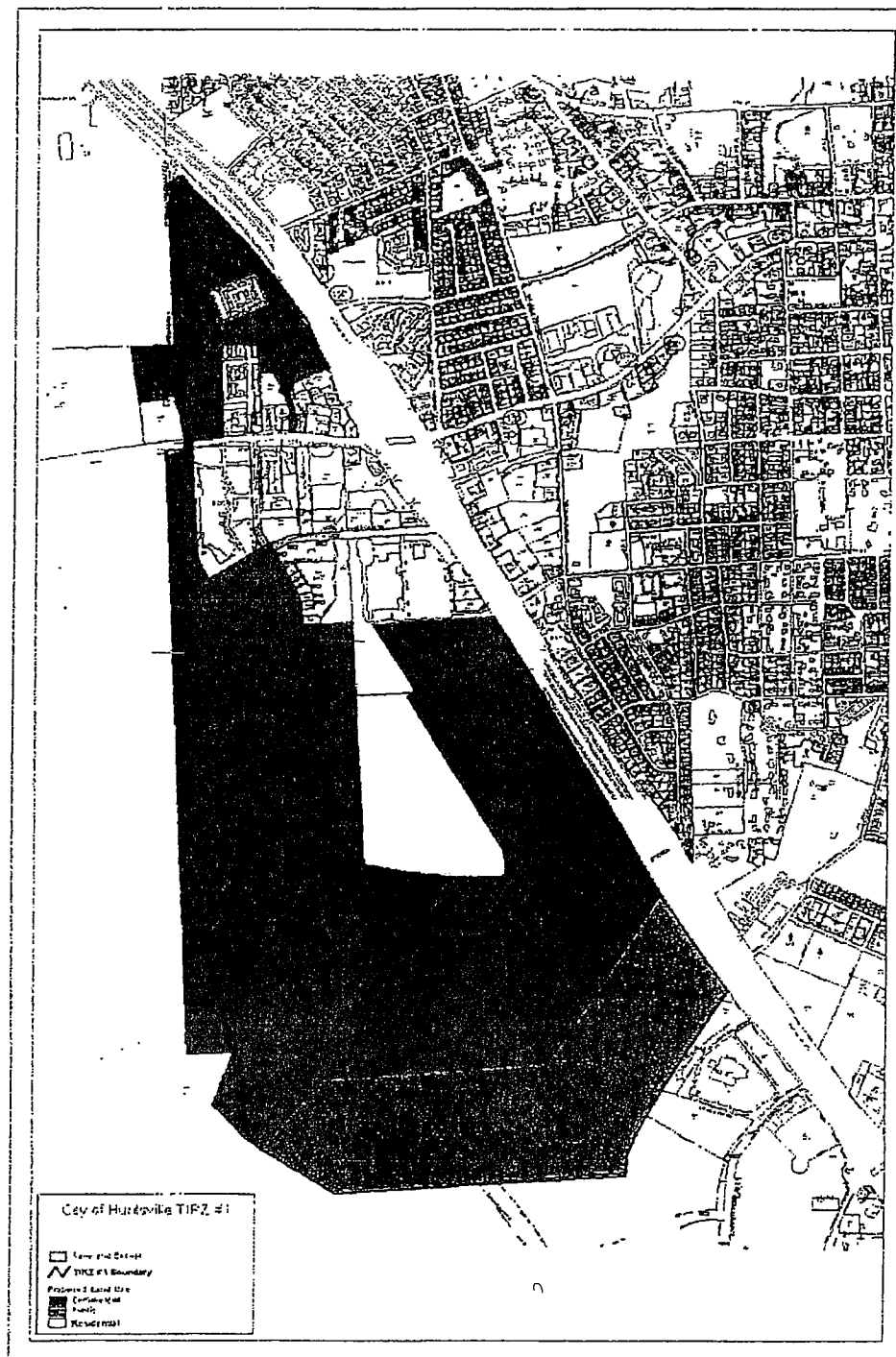
EXHIBIT "A"
PROPERTY DESCRIPTION

Property herein described consists of approximately 120 +/- acres being the residual of the property described in Vol. 109, Page 470 of the Deed Records of Walker County currently owned by the Smither Family and the same property referenced by the Walker County Appraisal District with a Geographical Identification number of 6600-125-0-00400 and 6600-125-0-00401.

(SEE ATTACHED MAP OF AREA)

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: F



04 04 2007 15:08 FAX 2516853450

PROPERTY-COMMERCE-MGMT

2005

EXHIBIT "B" CONCEPT PLAN

LAND USAGE REVIEW
FOR
PROPOSED
TARGET
HUNTSVILLE, TX
INTERSTATE HWY 45 AT BATHUR ROAD
HUNTSVILLE, TEXAS

RAVENWOOD
VILLAGE
BY



1000 BATHUR ROAD, SUITE 200
HOUSTON, TEXAS 77061
713.781.0000
www.target.com



TERRA
LANDSCAPE ARCHITECTS, P.C.
1000 BATHUR ROAD, SUITE 200
HOUSTON, TEXAS 77061
(713) 781-0000



3/10/2007

CONCEPTUAL
SITE DEVELOPMENT
PLAN - SCHEME R

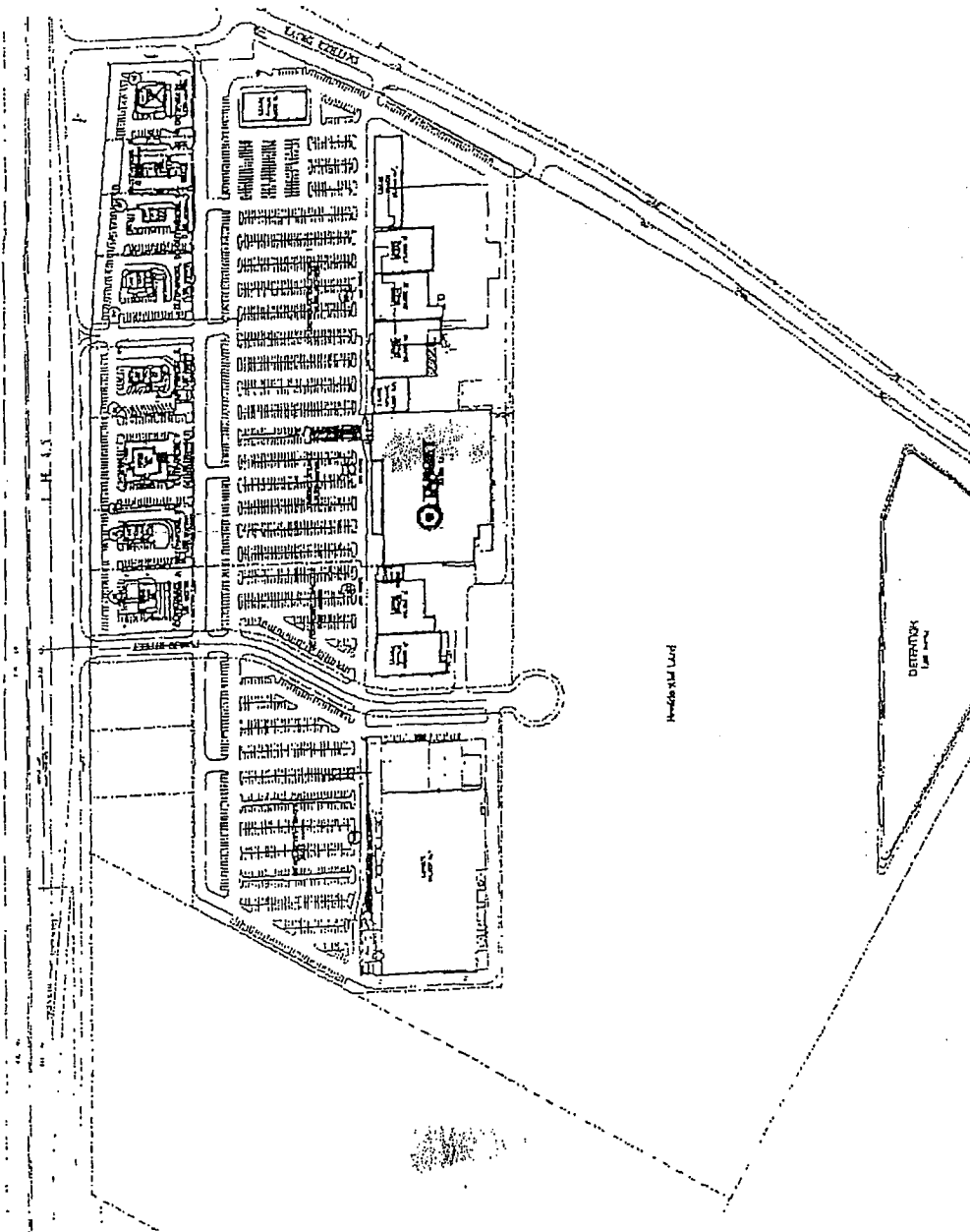


EXHIBIT C

HUNTSVILLE TIRZ NO. 1

REVISED PROJECT PLAN

CURRENT PROJECT PLAN

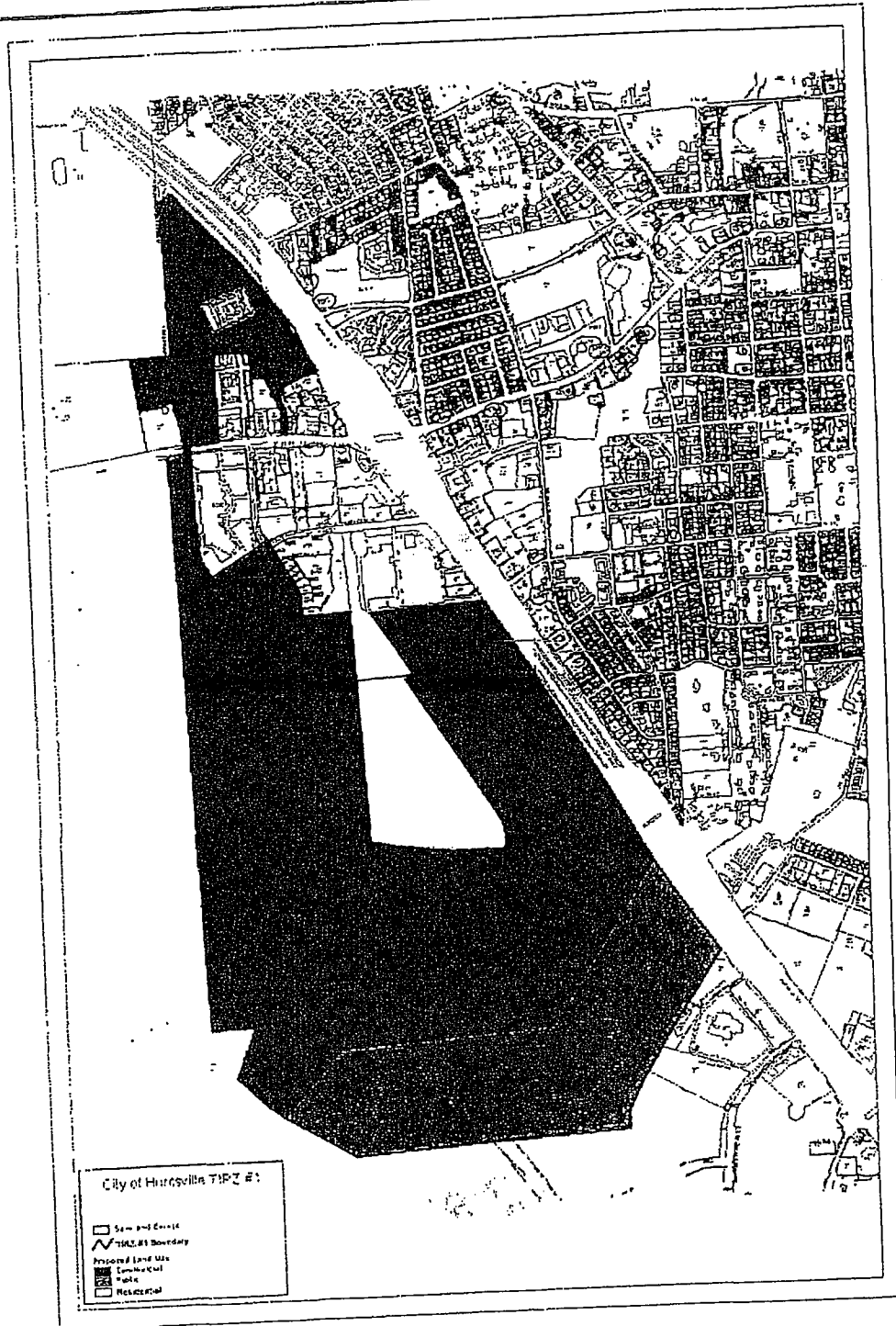
<u>PROJECT</u>	<u>ESTIMATED COST, \$K</u>
Project A (West Hills Park)	2.118
Project B (Bearkat Crossing)	2.451
TOTAL	<u>4.569</u>

NEW PROJECT PLAN

<u>PROJECT</u>	<u>ESTIMATED COST, \$K</u>
Project A (West Hills Park)	2.118
Project B (Bearkat Crossing) Deleted	-
Project C (Ravenwood Village)	8.303
Transportation Projects	2.000
TOTAL	<u>12.421</u>

PROJECT PLAN—HUNTSVILLE TIRZ NO. 1

Project Plan Exhibit: F



Feasibility Analysis
Exhibit D

CITY OF HUNTSVILLE
TIRZ NO. 1

SUMMARY

PROJECT PLAN (PUBLIC INFRASTRUCTURE PROJECTS)

<u>PROJECT</u>	<u>COST, \$K</u>
West Hills Park	2,118
Ravenwood Village	8,303
SUBTOTAL	10,421
Transportation Projects	2,000
TOTAL	12,421

TIRZ FUND CONTRIBUTIONS

<u>PROJECT</u>	<u>AMOUNT, \$K*</u>
West Hills Park	3,827
Ravenwood Village	10,485
TOTAL	14,312

* If a conservative rate of value increase (2% per year) after full build out is assumed, TIRZ income increases to \$4,195K for West Hills Park and \$11,493K for Ravenwood Village, or a total of \$15,688K.

Feasibility Analysis Exhibit: A

PUBLIC INFRASTRUCTURE - WEST HILLS PARK

Item	Estimated Cost \$ K	
Water	50	
Waste Water	96	
Drainage	150	
Demolition	250	
Utility Relocations	250	
Streets	356	
		1,152
	SUBTOTAL	
Engineering/Surveying Fees (15%)	173	
Financing Costs	600	
		773
	SUBTOTAL	
Contingency & Admin Costs (10%)	193	
		2,118
	<u>TOTAL</u>	

Note: Public improvement program and cost supplied by Developer.

Feasibility Analysis Exhibit: A-1

PUBLIC INFRASTRUCTURE - RAVENWOOD VILLAGE

Item	Estimated Cost \$ K	
East / West Public Road	645	
Offsite Paving	335	
Detention Ponds	1,511	
Retaining Walls	389	
Public On Site Water	230	
Public On Site Sanitary Sewer	214	
SUBTOTAL		3,324
Engineering/Surveying Fees (15%)	499	
SUBTOTAL		499
Public Roads (Residential Development)		4,480
SUBTOTAL (Property Commerce)		8,303
Transportation Projects*		2,000
<u>TOTAL</u>		10,303

*NOTE: Not part of Property Commerce projects

Feasibility Analysis Exhibit: B

PROPOSED BUILDOUT SCHEDULE (With TIRZ)

WEST HILLS PARK

PROJECT 1			
YEAR	USE	SIZE K/Sq. Ft.	VALUE \$K
		66	8,550
2006	Grocery	38	4,000
2011	Larger Retail	12	1,500
	Retail	15	1,750
	Retail		
	SUBTOTAL	131	15,800
		18	3,300
2007	Theatre	81	8,500
2012	Conference/Hotel	3	875
	Eatery	4	900
	Eatery	22	3,350
	Retail	4	800
	Eatery	8	1,200
	Eatery		
	SUBTOTAL	140	18,925
		6	850
2008	Eatery	14	2,250
2013	Motel and Eatery	5	1,250
	Gas Station	16	2,150
	Pharmacy	9	1,350
	Bank		
	SUBTOTAL	50	7,850
	TOTAL	321	42,575

Feasibility Analysis Exhibit: B-1
 ADDITIONAL BUILDOUT SCHEDULE (With TIRZ)
 RAVENWOOD VILLAGE

YEAR	USE	SIZE KSF	NO. UNITS	VALUE, \$K
2008	Discount Warehouse Retail	127.0	-	6,350
	Lease Space	18.5	-	1,665
	National Retailers	54.0	-	4,860
	Pads - Full Service Restaurants	10.0	-	1,850
	Pads - Fast Food Restaurants	6.4	-	1,440
	Pads - Retail	3.5	-	315
	Homes	-	58	11,600
	Subtotal	219.4	58	28,080
2009	Theater	50.0	-	2,500
	Lease Space	18.5	-	1,665
	National Retailers	54.0	-	4,860
	Grocery Store	109.0	-	5,450
	Pads - Banks	5.0	-	625
	Pads - Full Service Restaurants	6.0	-	1,110
	Pads - Fast Food Restaurants	9.5	-	2,138
	Pads - Retail	4.5	-	405
	Homes	-	58	11,600
	Subtotal	256.5	-	30,353
2010	Lease Space	18.5	-	1,665
	National Retailers	54.0	-	4,860
	Hotel	40.0	-	3,600
	Pads - Full Service Restaurants	6.0	-	1,110
	Pads - Fast Food Restaurants	7.5	-	1,688
	Homes	-	59	11,800
	Subtotal	126.0	59	24,723
2011	Lease Space	18.5	-	1,665
	National Retailers	54.0	-	4,860
	Pads - Banks	5.0	-	625
	Subtotal	77.5	-	7,150
2012	Lease Space	18.5	-	1,665
	National Retailers	54.0	-	4,860
	Subtotal	72.5	-	6,525
	TOTAL	751.9	175	96,831

Feasibility Analysis Exhibit: C

TIRZ FUND (With TIRZ)

WEST HILLS PARK

YEAR	DEVELOPMENT VALUE \$K	DEVELOPMENT CUM. VALUE \$K	TIRZ FUND * \$K
2004	-	-	-
2005	15,800	15,800	117
2006	18,925	34,725	256
2007	7,850	42,575	314
2008	-	42,575	314
2009	-	42,575	314
2010	-	42,575	314
2011	15,800	58,375	471
2012	18,925	77,300	610
2013	7,850	85,150	688
2014	-	85,150	688
2015	-	85,150	688
2016	-	85,150	688
2017	-	85,150	688
2018	-	85,150	688
2019	-	85,150	688
2020	-	85,150	688
2021	-	85,150	688
2022	-	85,150	688
2023	-	85,150	688
2024	-	85,150	688
TOTAL	42,575	85,150	688

*Based on Tax Rates of:

City \$0.425/\$100
 County \$0.3125/\$100

Feasibility Analysis Exhibit: C-1

TIRZ FUND FROM ADDITIONAL BUILDOUT SCHEDULE (With TIRZ)

RAVENWOOD VILLAGE

YEAR	DEVELOPMENT VALUE, \$K	DEVELOPMENT VALUE CUM, \$K	TIRZ FUND, \$K
2004	-	-	-
2005	-	-	-
2006	-	-	-
2007	-	-	-
2008	28,080	28,080	-
2009	30,353	58,433	207
2010	24,723	83,156	431
2011	7,150	90,306	613
2012	6,525	96,831	666
2013	-	96,831	714
2014	-	96,831	714
2015	-	96,831	714
2016	-	96,831	714
2017	-	96,831	714
2018	-	96,831	714
2019	-	96,831	714
2020	-	96,831	714
2021	-	96,831	714
2022	-	96,831	714
2023	-	96,831	714
2024	-	-	714
TOTAL	96,831	96,831	10,485

Based on tax rates of: City \$0.425 / \$100 valuation
County \$0.3125 / \$100 valuation

PROPERTY COMMERCE PROJECT
CITY OF HUNTSVILLE

GAP ANALYSIS *

Annual Net Operating Income (Avg. Year 1 - 10)	\$2,731,330
<u>Project Costs</u>	\$17,058,970
Land	
Construction	25,261,527
Site	10,898,250
Buildings	594,450
Architectual & Engineering	3,963,000
Tenant Allowance	1,724,025
Leasing	9,912,469
Financing	1,387,050
Other Fees	2,111,045
Development Mgmt	1,804,312
Contingency	1,279,498
Soft Costs	\$75,994,596
SubTotal	(28,683,841)
Land Sales	\$47,310,755
Net Project Cost	
Supportable Valuc @ 8.97% rate of return on NOI	\$30,449,610
Net Project Cost	(\$47,310,555)
Gap	(\$16,860,945)**

* Based on 11/9/06 Cash Flow Analysis provided by Developer

** 35 % of Net Project Cost

EXHIBIT " E "
ESTIMATED PUBLIC IMPROVEMENT COSTS
RAVENWOOD VILLAGE

	<u>COMMERCIAL</u>	
	<u>Phase 1</u>	<u>Phase 2</u>
1. Roadways	\$ 356,928	\$0
2. Water	\$ 280,400	\$89,600
3. Wastewater	\$ 286,520	\$80,200
4. Storm Drainage	\$ 278,300	\$0
5. Detention	\$1,194,790	\$0
6. Retaining Walls	\$ 592,304	\$0
7. Engineering	<u>\$ 448,386</u>	<u>\$25,470</u>
Sub-Total Commercial	\$3,437,628	\$195,270
Total Commercial	\$3,632,898	
Residential 60 acres @ \$74,667	<u>\$4,480,000</u>	
Total Public Improvement Cost	\$8,112,898	

ORDINANCE NO. 2009-08A

AN ORDINANCE AMENDING THE CITY OF HUNTSVILLE TIRZ#1 DEVELOPMENT AGREEMENT FOR RAVENWOOD VILLAGE PROJECT; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, on April 24, 2007, under the provisions of Chapter 311 of the Texas Tax Code, the City Council authorized a City of Huntsville TIRZ#1 Development Agreement for Ravenwood Village Project (the "Development Agreement");

WHEREAS, the Development Agreement was made in association with the *Performance Agreement Between the City of Huntsville, Texas, and Ravenwood Village, Ltd. for Ravenwood Village Development* as part of a project which was to include both a commercial phase and a residential phase;

WHEREAS, no progress has been accomplished for the residential phase and significant national economic factors have rendered new residential development impractical;

WHEREAS, on November 11, 2008, City Council amended the Project Plan and Financing Plan for TIRZ#1; and

WHEREAS, the City Council desires to amend the Development Agreement; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, that:

SECTION 1: Findings.

- A. The facts and recitations contained in the preamble of this ordinance are found to be true and correct and are adopted as part of this ordinance for all purposes.
- B. Construction for the commercial phase, including Public Improvements, of the Ravenwood Village Project has commenced.
- C. Revising the Agreement is beneficial to the Public.

SECTION 2: Amendment.

- A. Exhibit A is attached hereto is substituted in place of Exhibit A to the Development Agreement.
- B. Exhibits to the Development Agreement are amended to reflect the Tax Increment

Reinvestment Zone Project Plan and Financing Plan as those Plans have been amended on November 11, 2008.

C. Section 1.N. is amended to provide that "The Cap" shall be \$3,520,000.

D. Section 1.P is amended to provide that the "Tax Increment" shall use \$211,480 as the appraisal value of the Property on January 1, 2004.

E. Exhibit E shall be amended to delete the line:

"Residential 60 acres @ \$74,667

\$4,480,000."


F. Exhibit E shall be amended to state Total Public Improvement Cost as, "\$4,220,109."

SECTION 3: If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the City Council determines that it would have adopted this Ordinance without the invalid provision.

SECTION 4: This Ordinance shall take effective immediately from and after the date of its passage.


PASSED AND APPROVED THIS 11TH DAY OF NOVEMBER 2008.

CITY OF HUNTSVILLE, TEXAS



J. Turner, Mayor

ATTEST:


Stephanie Brim, City

Stephanie Brim, City Secretary

APPROVED AS TO FORM:

Thomas A. Leeper

Thomas A. Leeper, City Attorney

CITY OF HUNTSVILLE, TEXAS
Public Works - Surveying
448 State Hwy. 75 North
Huntsville, Texas 77320

THE STATE OF TEXAS §

COUNTY OF WALKER §

I, Leonard E. Woods, Registered Professional Land Surveyor No. 2524, do hereby certify that this document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

TAX INCREMENT REINVESTMENT ZONE NUMBER ONE (REVISED)

Being a parcel of land containing approximately 68.3976 acres, within the corporate limits of the City of Huntsville, situated in the PLEASANT GRAY LEAGUE, Abstract No. 24, Walker County, Texas, said parcel being comprised of the following:

- (1) A called 9.4958 acre tract described by metes and bounds labeled "Target Tract" and attached as Exhibit "A" in a Corrected Operation And Easement Agreement Between Target Corporation and Ravenwood Village, Ltd. recorded in Volume 862, page 272, Official Public Records of Walker County, Texas. A copy of which is attached hereto as EXHIBIT "A".
- (2) A called 22.5314 acre and 35.4691 acre tract described by metes and bounds labeled "Developer Parcel A and B" respectively and attached as Exhibit "B" in said Corrected Operation And Easement Agreement Between Target Corporation and Ravenwood Village, Ltd.. A copy of which is attached hereto as EXHIBIT "B".
- (3) A called 0.9013 acre tract described by metes and bounds labeled "Proposed Ravenwood Village Drive" and attached as Exhibit F in a Property Owners Agreement between Ravenwood Village, Ltd. and MCN Realty LP recorded in Volume 864, page 64; Official Public Records. A copy of which is attached hereto as EXHIBIT "F".

The following Exhibits of Survey Plat and Site Plan are included as follows:

- (1) Survey Plat attached as Exhibit "E" in said Property Owners Agreement between Ravenwood Village, Ltd. and MCN Realty LP. A copy of which is attached hereto as EXHIBIT "E".
- (2) Site Plan attached as Exhibit "X" in said Corrected Operation And Easement Agreement Between Target Corporation and Ravenwood Village, Ltd.. A copy of which is attached hereto as EXHIBIT "X".

Tax Increment Reinvestment Zone Number One
 Revised November 2008
 City of Huntsville
 Walker County, Texas

EXHIBIT "A"

	Bk	Vol	Ps
00004158	OR	862	338

EXHIBIT A
 LEGAL DESCRIPTION OF TARGET TRACT

Being a tract or parcel containing 9 4958 acres (413,637 square feet) of land situated in the P Gray Survey, Abstract Number 24, Walker County, Texas, and being out of and a portion of the called 384 73 acre tract as described in the deed to John T. Smither, et al, recorded in, Volume 109, Page 470, of the Walker County Deed Records, said 9 4958 acre tract being more particularly described by metes and bounds as follows (all bearings are based on the Texas State Plane Coordinate System, Central Zone, as represented by the City of Huntsville, Texas, Mapping Control Network)

COMMENCING at a 5/8-inch iron rod found in the north right-of-way line of Smither Road (width varies) marking the northwest corner of Parcel 32 as described in the deed recorded in Volume 402, Page 458, of the Walker County Deed Records,

THENCE, North 03°29'46" West, along the east line of the called 248 20 acre tract, as described in the deed recorded in Volume 90, Page 488, of the Walker County Deed Records, a distance of 1,885 47 feet to a 1/2-inch iron rod found marking the southwest corner of the called 32 2328 acre tract as described in the deed recorded in Volume 456, Page 155, of the Walker County Deed Records, from which a 5/8-inch iron rod found marking the northwest corner of said called 32 2328 acre tract bears North 03°24'07" West, 787 72 feet,

THENCE, North 88°19'48" East, along the south line of said called 32 2328 acre tract, a distance of 2,003 39 feet to a 5/8-inch iron rod found in the west right-of-way line of Interstate Highway 45 (width varies) as described in the deeds recorded in Volume 155, Page 422, and Volume 155, Page 427, of the Walker County Deed Records, marking the southeast corner said called 32 2328 acre tract,

THENCE, South 32°36'37" East, along said west right-of-way line a distance of 920 95 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the north corner and POINT OF BEGINNING of the herein described tract,

THENCE, crossing the aforesaid called 384 73 acre tract the following twenty (20) courses and distances,

South 57°23'23" West, a distance of 408 48 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

South 32°36'37" East, a distance of 30 00 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

South 57°23'23" West, a distance of 177 01 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of

DB0366 000124 DALLAS 2259948 5

1

EXHIBIT "A"

Page 2 of 14

Tax Increment Reinvestment Zone Number One
 Revised November 2008
 City of Huntsville
 Walker County, Texas

	Blk	Vol	Fs
00004158	OR	862	339

the herein described tract,

North 32°36'37" West, a distance of 128.50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

South 57°23'23" West, a distance of 297.46 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

South 47°15'47" East, a distance of 69.80 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

South 32°36'37" East, a distance of 47.31 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

South 57°23'23" West, a distance of 237.89 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 32°36'37" West, a distance of 7.91 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

South 57°23'23" West, a distance of 214.45 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the west corner of the herein described tract,

South 32°36'30" East, a distance of 420.00 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the south corner of the herein described tract,

North 57°23'23" East, a distance of 136.79 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 32°36'37" West, a distance of 7.92 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 57°23'23" East, a distance of 295.13 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

080346 000124 DALLAS 2259258.5

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Tax Increment Reinvestment Zone Number One
Revised November 2008
City of Huntsville
Walker County, Texas

	Bk	Vol	Ps
011004158	OR	262	340

North 32°36'37" West, a distance of 33 50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 57°23'23" East, a distance of 116 10 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 32°36'37" West, a distance of 31 50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 57°23'23" East, a distance of 415 13 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the east corner of the herein described tract,

North 32°36'37" West, a distance of 295 50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 57°23'23" East, a distance of 354 50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set in the aforesaid west right-of-way line of Interstate Highway 45 marking an angle corner of the herein described tract,

THENCE, North 32°36'37" West, along said west right-of-way line, a distance of 60 00 feet to the POINT OF BEGINNING and containing 9 4958 acres (413,637 square feet) of land. This description is based on the plat of the-ALTA/ACSM Land Title Survey prepared by Terra Surveying Company, Inc., dated October 11, 2007, TSC Project Number 2453-0703-B04

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EXHIBIT "B"

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EXHIBIT B LEGAL DESCRIPTION OF DEVELOPER TRACT

The Developer Tract is comprised of two parcels of land, described as follows:

Developer Parcel A, Outparcels A through F, and Detention Pond 1:

Being a tract or parcel containing 22 5314 acres (981,468 square feet) of land situated in the P Gray Survey, Abstract Number 24, Walker County, Texas, and being out of and a portion of the called 384 73 acre tract as described in the deed to John T. Smither, et al, recorded in Volume 109, Page 470, of the Walker County Deed Records, said 22 5314 acre tract being more particularly described by metes and bounds as follows (all bearings are based on the Texas State Plane Coordinate System, Central Zone, as represented by the City of Huntsville, Texas, Mapping Control Network)

COMMENCING at a 5/8-inch iron rod found in the north right-of-way line of Smither Road (width vanes) marking the northwest corner of Parcel 32 as described in the deed recorded in Volume 402, Page 458, of the Walker County Deed Records,

THENCE, North 03°29'46" West, along the east line of the called 248 20 acre tract, as described in the deed recorded in Volume 90, Page 488, of the Walker County Deed Records, a distance of 1,885 47 feet to a 1/2-inch iron rod found marking the southwest corner of the called 32 2328 acre tract as described in the deed recorded in Volume 456, Page 155, of the Walker County Deed Records, from which a 5/8-inch iron rod found marking the northwest corner of said called 32 2328 acre tract bears North 03°24'07" West, 787 72 feet,

THENCE, North 86°19'46" East, along the south line of said called 32 2328 acre tract, a distance of 2,003 39 feet to a 5/8-inch iron rod found in the west right-of-way line of Interstate Highway 45 (width vanes) as described in the deeds recorded in Volume 155, Page 422, and Volume 155, Page 427, of the Walker County Deed Records, marking the southeast corner said called 32 2328 acre tract,

THENCE, South 32°36'37" East, along said west right-of-way line a distance of 980 95 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the north corner and POINT OF BEGINNING of the herein described tract,

THENCE, continuing along said west right-of-way line the following four (4) courses and distances

South 32°36'37" East, a distance of 360 84 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract, common with an angle corner of said west right-of-way line,

South 28°19'37" East, a distance of 752 14 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the southeast

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corner of the herein described tract common with an angle corner of said west right-of-way line, from which a found concrete monument bears North 57°23' East, 3 30 feet,

South 57°23'23" West, a distance of 385 59 feet, to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract common with an angle corner of said west right-of-way line,

South 32°36'37" East, a distance of 50 65 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract common with the intersection of said west right-of-way line and the aforesaid north right-of-way line of Smither Road,

THENCE, South 81°28'46" West, along said north right-of-way line, a distance of 390 45 feet to a 5/8-inch iron rod found marking an angle corner of said north right-of-way line common with an angle corner of the herein described tract,

THENCE, South 87°37'44" West, continuing along said north right-of-way line, a distance of 601 27 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the southwest corner of the herein described tract, from which a 5/8-inch iron rod found marking an angle corner of said north right-of-way line bears South 87°37'44" West, 544 29 feet,

THENCE, crossing the aforesaid called 384 73 acre tract the following twelve (12) courses and distances

North 32°36'30" West, a distance of 211 80 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking a point on a curve to the right,

Along said curve to the right having a central angle of 96°12'52", an arc distance of 117 55 feet, a radius of 70 00 feet, and a chord which bears North 32°36'30" West, 104 22 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the end of said curve,

North 32°36'30" West, a distance of 14 92 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the west corner of the herein described tract,

North 57°23'23" East, a distance of 136 79 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 32°36'37" West, a distance of 7 92 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of

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the herein described tract,

North 57°23'23" East, a distance of 295 13 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 32°36'37" West, a distance of 33 50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 57°23'23" East, a distance of 118 10 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 32°36'37" West, a distance of 31 50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 57°23'23" East, a distance of 415 13 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the east corner of the herein described tract,

North 32°36'37" West, a distance of 295 50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 57°23'23" East, a distance of 354 50 feet to the POINT OF BEGINNING and containing 22 5314 acres (981,468 square feet) of land. This description is based on the plat of the ALTA/ACSM Land Title Survey prepared by Terra Surveying Company, Inc., dated February 28, 2008, and last revised April 23, 2008, TSC Project Number 2453-0703-X11

Developer Parcel B, Outparcels G through K, Detention Pond 2, Detention Pond 3, Detention Pond 4, Detention Pond 5 and the Street Dedication Parcel:

Being a tract or parcel containing 35 4691 acres (1,545,034 square feet) of land situated in the P. Gray Survey, Abstract Number 24, Walker County, Texas, and being out of and a portion of the called 384 73 acre tract as described in the deed to John T. Smither, et al, recorded in Volume 109, Page 470, of the Walker County Deed Records, said 35 4691 acre tract being more particularly described by metes and bounds as follows (all bearings are based on the Texas State Plane Coordinate System, Central Zone, as represented by the City of Huntsville, Texas, Mapping Control Network)

COMMENCING at a 5/8-inch iron rod found in the north right-of-way line of Smither Road (width varies) marking the northwest corner of Parcel 32 as described in the deed

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recorded in Volume 402, Page 458, of the Walker County Deed Records,

THENCE, North 03°29'46" West, along the east line of the called 248 20 acre tract, as described in the deed recorded in Volume 90, Page 488, of the Walker County Deed Records, a distance of 1,885 47 feet to a 1/2-inch iron rod found marking the southwest corner of the called 32 2328 acre tract as described in the deed recorded in Volume 456, Page 155, of the Walker County Deed Records, common with the northwest corner of the herein described tract, from which a 5/8-inch iron rod found marking the northwest corner of said called 32 2328 acre tract bears North 03°24'07" West, 787 72 feet,

THENCE, North 86°19'46" East, along the south line of said called 32 2328 acre tract, a distance of 898 88 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the northwest corner and POINT OF BEGINNING of the herein described tract,

THENCE, North 86°19'46" East, continuing along said south line, a distance of 1,104 51 feet to a 5/8-inch iron rod found in the west right-of-way line of Interstate Highway 45 (width varies) as described in the deeds recorded in Volume 155, Page 422, and Volume 155, Page 427, of the Walker County Deed Records, marking the southeast corner said called 32 2328 acre tract common with the northeast corner of the herein described tract,

THENCE, South 32°36'37" East, along said west right-of-way line, a distance of 920 85 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the southeast corner of the herein described tract,

THENCE, crossing the aforesaid called 384 73 acre tract the following twenty (20) courses and distances

South 57°23'23" West, a distance of 408 48 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

South 32°36'37" East, a distance of 30 00 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

South 57°23'23" West, a distance of 177.01 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 32°36'37" West, a distance of 128 50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

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South 57°23'23" West, a distance of 297.46 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

South 47°15'47" East, a distance of 69.80 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

South 32°36'37" East, a distance of 47.31 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

South 57°23'23" West, a distance of 237.89 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

North 32°36'37" West, a distance of 7.91 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

South 57°23'23" West, a distance of 214.45 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the west corner of the herein described tract.

North 32°36'30" West, a distance of 122.71 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

South 57°23'23" West, a distance of 25.88 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

North 32°36'37" West, a distance of 97.24 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

North 50°20'50" West, a distance of 204.50 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

North 63°53'10" West, a distance of 79.52 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

North 35°34'09" West, a distance of 38.69 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract.

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the herein described tract,

North 07°21'27" West, a distance of 65.56 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 14°40'28" East, a distance of 299.10 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 32°36'33" West, a distance of 255.77 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking an angle corner of the herein described tract,

North 03°40'07" West, a distance of 485.14 feet to the POINT OF BEGINNING and containing 35.4891 acres (1,545,034 square feet) of land. This description is based on the plat of the Land Title Survey prepared by Terra Surveying Company, Inc., dated February 28, 2008, and last revised April 23, 2008, TSC Project Number 2453-0703-X11.

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EXHIBIT "F"

PROPERTY OWNERS AGREEMENT EXHIBIT "F"

00004463

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METES AND BOUNDS DESCRIPTION
PROPOSED RAVENWOOD VILLAGE DRIVE
0.9013 ACRES (39,261 SQUARE FEET)
P GRAY SURVEY, ABSTRACT NUMBER 24
WALKER COUNTY, TEXAS

Being a tract or parcel containing 0.9013 acres (39,261 square feet) of land situated in the P. Gray Survey, Abstract Number 24, Walker County, Texas, and being out of and a portion of the called 32.2328 acre tract as described in the deed to MNC Realty, LP, recorded in Volume 456, Page 155, of the Walker County Deed Records, said 0.9013 acre tract being more particularly described by metes and bounds as follows (all bearings shown hereon are referenced to the City of Huntsville, Texas, Mapping Control Network, and based on the position of control point number 6314 (N=10,256,332.07 feet, E=3,794,381.32 feet) and control point number 6299 (N=10,253,535.52 feet, E=3,796,181.12 feet). Coordinates and distances stated herein are surface and may be converted to grid by multiplying by a combined scale factor of 0.999888)

COMMENCING at a 5/8-inch iron rod found (N=10,253,499.49 feet, E=3,792,896.97 feet) in the north right-of-way line of Smither Road (width vanes) marking the northwest corner of Parcel 32 as described in the deed recorded in Volume 402, Page 458, of the Walker County Deed Records,

THENCE, North 03°40'14" West, along the east line of the called 248.20 acre tract as described in the deed recorded in Volume 90, Page 488, of the Walker County Deed Records, a distance of 1,885.47 feet to a 1/2-inch iron rod found marking the southwest corner of the aforesaid called 32.2328 acre tract, from which a 5/8-inch iron rod found marking the northwest corner of said called 32.2328 acre tract bears North 03°24'07" West, 787.72 feet,

THENCE, North 86°19'46" East, along the south line of said called 32.2328 acre tract, a distance of 898.88 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the southwest corner and POINT OF BEGINNING of the herein described tract,

THENCE, North 03°40'07" West, along the proposed west right-of-way line of Ravenwood Village Drive (proposed 70 feet wide) a distance of 35.00 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the northwest corner of the herein described tract,

THENCE, North 86°19'45" East, crossing the aforesaid called 32.2328 acre tract along the proposed north right-of-way line of said Ravenwood Village Drive, a distance of 984.44 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the Point of Curvature of a curve to the left,

THENCE, continuing across said called 32.2328 acre tract along said proposed north right-of-way line and said curve to the left having a central angle of 28°56'23", an arc distance of 75.76 feet, a radius of 150.00 feet, and a chord which bears North 71°51'34" East, 74.96 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set marking the end of said curve,

THENCE, North 57°23'23" East, continuing across said called 32.2328 acre tract along said proposed north right-of-way line, a distance of 15.55 feet to a 5/8-inch iron rod with plastic cap stamped "TERRA SURVEYING" set in the west right-of-way line of Interstate Highway 45 (width vanes) as described in the deeds recorded in Volume 155, Page 422, and Volume 155, Page 427, of the Walker County Deed Records marking the northeast corner of the herein described tract, from which a 5/8-inch iron rod found marking the northeast corner of said called 32.2328 acre tract bears North 32°36'37" West, 829.77 feet,

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Exhibit "F"

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METES AND BOUNDS DESCRIPTION

0.9013 ACRES

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THENCE, South 32°36'37" East, along said west right-of-way line, a distance of 70.00 feet to a 5/8-inch iron rod found marking the southeast corner of said called 32.2328 acre tract common with the southeast corner of the herein described tract.

THENCE, South 86°19'46" West, along the aforesaid south line of the called 32.2328 acre tract, a distance of 1,104.51 feet to the POINT OF BEGINNING and containing 0.9013 acres (39,261 square feet) of land. This description is based on the plat of the Land Title Survey prepared by Terra Surveying Company, Inc., last revised March 13, 2008, TSC Project Number 2453-0703-X07.

Compiled by Mark J. Pinano, RPLS
Terra Surveying Company, Inc.
MB09013RWOODVLGDR.doc

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Exhibit "F"

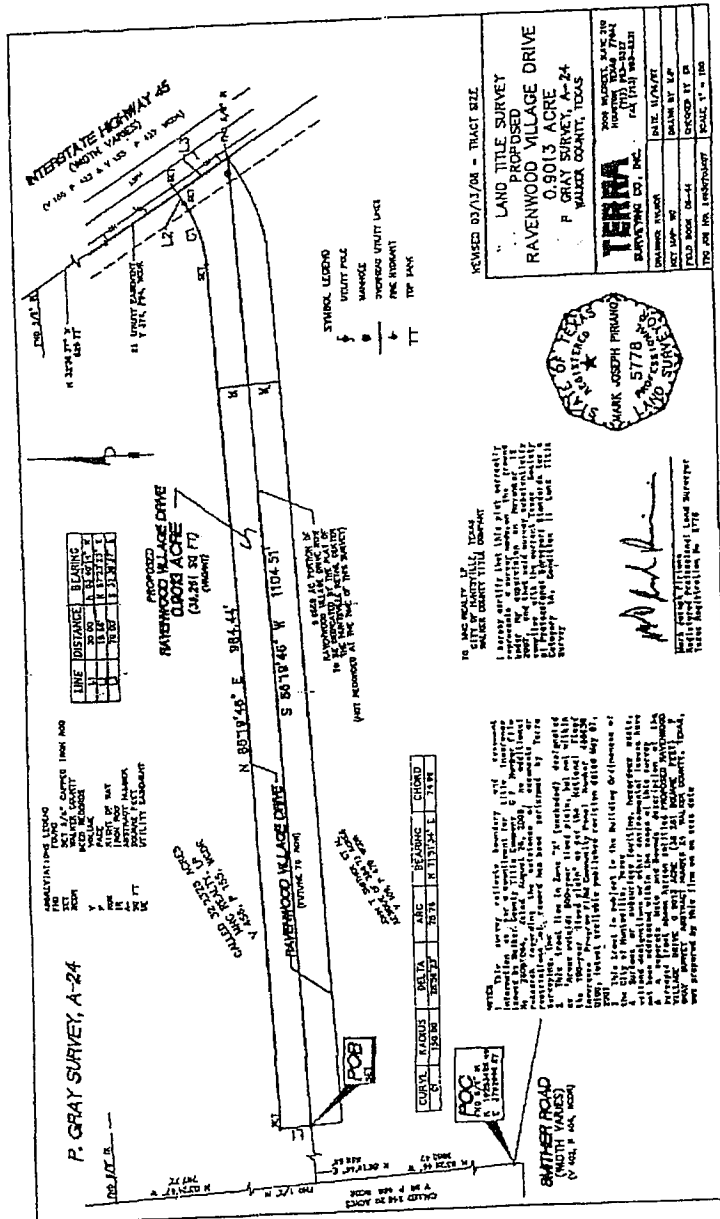
Page 2 of 2

EXHIBIT "A"
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EXHIBIT "E"

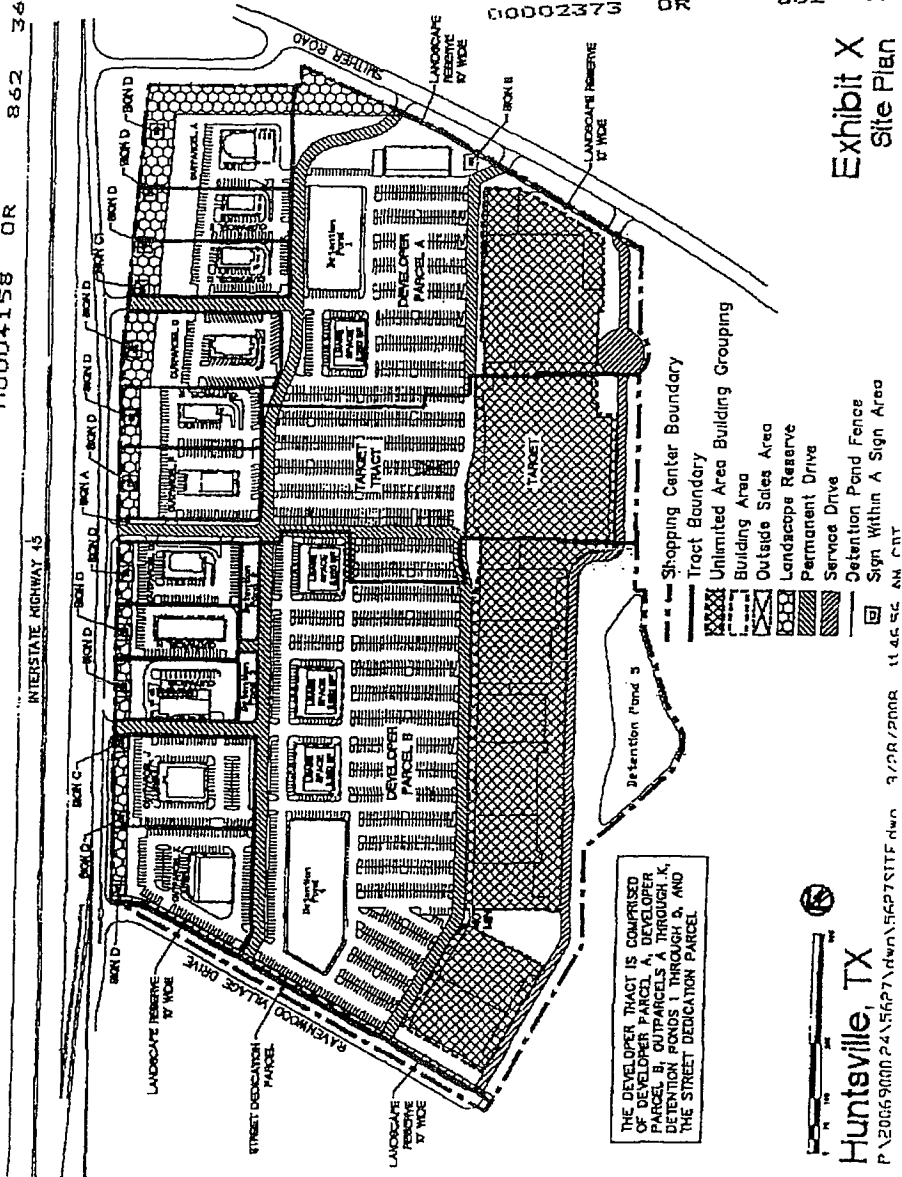
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Property Owners Agreement Exhibit "E"

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Exhibit X
Site Plan

Signed _____
Leonard E. Woods
Reg. Prof. Land Surveyor No. 2524

2007-18

**PERFORMANCE AGREEMENT
BETWEEN THE CITY OF HUNTSVILLE, TEXAS AND RAVENWOOD
VILLAGE, LTD., FOR RAVENWOOD VILLAGE DEVELOPMENT**

Background

Section 380.001 of the Texas Local Government Code authorizes cities to establish one or more programs to promote local economic development and to stimulate business and commercial activity in the city. The City of Huntsville, Texas (the City) desires to encourage businesses that will enhance City sales tax revenues and increase employment opportunities to locate, maintain or expand a place of business within the City. The Ravenwood Village development to be located at the intersection of Interstate 45 and Smither Drive will consist of approximately 450,000 square feet of restaurant and retail space and related improvements that will enhance the City's sales tax revenues and employment opportunities. By this Agreement, the City establishes an economic development program for the Ravenwood Village development.

The City and Ravenwood Village, Ltd. (the "Developer") wish to enter into this Performance Agreement providing for economic incentive payments by the City to Developer in consideration of Developer performing the obligations imposed upon it as specified in this Performance Agreement.

Agreement

The City and Developer agree as follows:

1. Definitions. In this Agreement:

Agreement means this Agreement.

City means the City of Huntsville, Texas, a municipal corporation located in Walker County, Texas.

Comptroller means the Comptroller of Public Accounts of the State of Texas, or whatever person, position, or office is designated by law to administer the collection, reporting, and distribution of sales taxes.

Employees means all persons paid for personal services performed from all sources of funds, including persons paid from Federally-funded programs, persons in a paid leave status, and persons paid on a per annual, semiannual, or quarterly basis. Excluded from employment statistics are employees on unpaid leave, unpaid pensioners, persons whose work is performed on a fee basis, and contractors and their employees.

Employment means all persons gainfully employed by and performing services for a permanent business within the Project area.

Ravenwoodvillage agreement

Employment Period means the pay period that includes March 12th (regardless of the period's length).

Full-time Employees means employees that are defined to include those persons whose hours of work represent full-time employment in their business (40 or more hours per week). Included are full-time temporary or seasonal employees who are working the number of hours that represent full-time employment.

Full-time Equivalent (FTE) Employment means the total number of Full-time Employees added to the number of Part-time Employee hours paid divided by the standard forty (40) hours for Full-time Employment.

Part-time Employees means employees that are those persons who work less than the standard number of hours for full-time work in their business (less than 40 hours per week). Excluded are full-time temporary or seasonal employees who are working the number of hours that represent full-time employment. Included are part-time temporary or seasonal employees.

Average FTE Employment means the number of FTE Employees calculated during the Employment Period.

Existing Business means a going business which has been open for business within the City of Huntsville corporate limits as of January 1, 2007.

Final Payment Year shall mean the Sales Tax Year in which this Agreement terminates according to Section 5 hereunder.

Ravenwood Village means the approximately 60.0 acre commercial development to be located at the intersection of Interstate 45 and Smither Drive in Huntsville that will consist of buildings to be used for retail and restaurant establishments containing approximately 450,000 square feet of floor space, sidewalks, parking lots, outdoor lighting, landscaping, infrastructure improvements and other improvements to serve the buildings, all as shown on the conceptual land plan attached as Exhibit "B" and incorporated into this Agreement by reference.

Developer means Ravenwood Village, Ltd., a Texas limited partnership.

Person means an individual, sole proprietorship, partnership, limited partnership, corporation, or any other legal entity.

Sales Tax means the City's 1.5% sales and use tax consisting of the municipal sales and use tax and the additional municipal sales tax adopted by the City under the authority of the Texas Tax Code, Chapter 321.

Base Sales Tax means the Sales Tax for an Existing Business as of the date of execution of this Agreement, to be determined by taking an average of the immediately preceding three (3) years according to the Existing Business's reports to the Comptroller.

Sales Tax Year means each year of this Agreement as measured by twelve consecutive months. The first sales tax year under this Agreement begins January 1 of the year in which the Target retail store (referenced in Section 3(a)(2)) obtains its permanent Certificate of Occupancy.

Tenant means a Person that leases retail or restaurant space within Ravenwood Village.

2. City Council Findings. By approval of this Agreement, the City Council of the City of Huntsville finds:

- (a) that the economic development program established in this Agreement is authorized by Texas Local Government Code, Chapter 380;
- (b) Huntsville residents and Sam Houston State University students must travel to other cities and counties to obtain suitable employment, significant market leakage is occurring whereby residents and students travel to other locations for shopping and dining opportunities, residents of other nearby incorporated and unincorporated areas who leave their locality for shopping and dining bypass Huntsville because of lack of shopping and dining opportunities here, and significant potential sales tax revenue is being lost to local public entities in favor of supporting the treasuries of entities in other counties;
- (c) that the financial incentives provided in this Agreement will promote economic development and diversification, stimulate business and commercial activity, expand commerce, eliminate unemployment and underemployment, and enhance sales tax revenue within the City, all of which are public purposes; and
- (d) this Agreement contains sufficient controls to ensure its purposes are carried out.

3. DEVELOPER Obligations.

- (a) Developer agrees that:

(1) Ravenwood Village will be constructed in accordance with the conceptual land plan attached as Exhibit "B", with no substantial changes without City's prior written approval which may not be unreasonably withheld, and the City's ordinances and Codes;

(2) It will complete construction and obtain a permanent Certificate of Occupancy for a Target retail anchor store during 2009;

(3) Ravenwood Village will be similar in tenant quality to tenants at Clear Lake Shores Center on Highway 146 at Highway 2094, Conroe Towne Center at Interstate 45 and Highway 105, Cypress Towne Center on Highway 290 at Spring Cypress and Cypresswood Court at Interstate 45 and Cypress, all in the Houston, Texas metropolitan area as those developments exist on the effective date of this Agreement;

(4) Ravenwood Village will be similar in appearance and construction quality to Clear Lake Shores Center on Highway 146 at Highway 2094, Conroe Towne Center at Interstate 45 and Highway 105, Cypress Towne Center on Highway 290 at Spring Cypress and Cypresswood Court at Interstate 45 and Cypress, all in the Houston, Texas metropolitan area as those developments exist on the effective date of this Agreement;

(5) The City must give its written approval of the aesthetic and architectural aspects of Ravenwood Village, including but not limited to the parking and the aesthetic aspects of the landscaping for Ravenwood Village, prior to their installation or construction; however, such approval shall not be withheld so long as such aspects are substantially consistent with Exhibit B; and

(6) The City's right to approve the foregoing aesthetic and architectural aspects of Ravenwood Village serves as a substantial component of the City's consideration in this Agreement.

(b) New Sales Tax Revenue. For Developer to receive the economic incentive payment in this Agreement, the Tenants must generate new sales tax. Accordingly, the economic incentive payment will not include any Base Sales Tax generated from an Existing Business in the City that relocates to Ravenwood Village. Developer will ensure that Existing Businesses which become Tenants will provide sufficient information to City in order to determine their respective Base Sales Tax.

(c) Jobs Creation Requirement. Ravenwood Village Tenants must achieve Full-time Equivalent Employment of 350 by the Final Payment Year.

(d) Anchor Tenant. Target retail store will be a major anchor tenant for Ravenwood Village. Target must be open for business during 2009.

(e) Failure to Meet Requirement Benchmarks. In the event Developer fails to achieve any requirement benchmark by the Final Payment Year, City shall not be obligated to pay any amount to Developer in or on account of the Final Payment Year Sales Tax, and all obligations of City to Developer are deemed fully satisfied.

(f) Reports and Information. On or before January 31st of each Sales Tax Year, Developer will provide the City with (i) the names and addresses of the Tenants as of such date, (ii) a release or waiver from each Tenant to authorize the Comptroller and other applicable State agencies to release to City necessary records or information to allow City to determine compliance with requirement benchmarks and (iii) written certification that it is in compliance with the terms of this Agreement. Developer must provide sufficient written information, records, and documents to support its certification of compliance.

(1) By April 30 of each Sales Tax Year, Developer will provide, or cause to be provided, to City verifiable Tenant employment records that show the number of Employees employed by the Tenants of Ravenwood Village in the preceding Sales Tax Year and provide sufficient written information, records and documents to support its certification of compliance. Developer will cooperate with any necessary verification of employment data.

(2) At any time during this Agreement, upon written request of the City, Developer will promptly provide to the City any additional information reasonably necessary to determine if Developer is complying with this Agreement.

(3) All information provided by Developer to the City under this subsection (f) shall be sent to the attention of the City's City Manager at the address specified for giving notice in this Agreement.

(4) All information provided by Developer to the City under this subsection shall be deemed confidential and shall not be provided to any person outside City government, and shall not be subject to public inspection in accordance with the Texas Open Records Law, pursuant to §552.110, Texas Government Code. In the event a request is made for such information, the City will not disclose the information unless required to do so by the Attorney General of Texas.

4. Economic Development Program and Incentive Payments.

(a) Establishment of 380 Economic Development Program. As consideration for Developer's contractual obligations hereunder, the City establishes an economic development program pursuant to Chapter 380, Texas Local Government Code to be known as the "Ravenwood Village Economic Development Program."

(b) Incentive Payment and Limitations. As part of the Ravenwood Village Economic Development Program, the City will pay Developer 50.0% of the Sales Tax the City receives from Ravenwood Village, minus any discounts or administrative fees, until December 31, 2020, the expiration of ten (10) years from the date of issuance of Target's permanent Certificate of Occupancy or until

such time that the aggregate payments to Developer equal \$6,000,000, whichever occurs first. The biannual payments specified in subsection (c) below will be based on reports received from the Comptroller using Tenant names and addresses provided by Developer. The City has no obligation to pay the reimbursement payment unless the City receives (i) sales tax data from the Comptroller for Ravenwood Village; (ii) reliable sales or sales tax data from Developer for the Ravenwood Village as provided in subsection (d); and (iii) the reports from Developer required by this Agreement. Developer will obtain from each Tenant sufficient release or waiver to authorize any applicable State agencies to release to City necessary records or information to allow City to determine compliance with requirement benchmarks

(c) Time of Payments. Each reimbursement payment to Developer will be made within sixty (60) days after January 31st (for sales from the previous January through December 31 if the City has received the required Sales Tax and data from the Comptroller and any reports from Developer required by this Agreement. Data received late at the City from the Comptroller or Developer, respectively, will postpone timing of payments by the number of days such information is late. Developer will be eligible to receive payment following Developer providing the City evidence of receipt of permanent certificate of occupancy for a Target retail store within the development, and so long as Developer is not in breach of this Agreement. No incentive payment will be due for any Sales Tax Year prior to the Sales Tax Year in which the Target retail store obtains its permanent certificate of occupancy.

(d) Revenue Sharing Agreement. To facilitate the identification of Sales Tax generated from Ravenwood Village, the City will identify this Agreement as a revenue sharing agreement qualifying under Texas Tax Code Section 321.3022. If there are fewer than three sales tax accounts in Ravenwood Village (as required by Section 321.3022), the Comptroller will not recognize this Agreement as qualifying under such provision, or if the stores within Ravenwood Village are "list filers" as allowed under the Texas Tax Code, Developer agrees to provide or cause to be provided any necessary sales and sales tax payment data necessary for the City to pay the economic incentive payment. Developer will cause Tenants to execute a waiver of sales tax confidentiality in substantially the same form as Appendix 1 hereto.

(e) Repayment. If, for any reason, the City is required to refund to the State of Texas any of the Sales Tax revenues it receives that are generated from Ravenwood Village upon which the payments made by the City to Developer are calculated under this Agreement, the City may adjust future payments to Developer to account for the refund. If there are no future payments to be made by the City, Developer will repay the City the amount of funds owed based on the Comptroller's adjustment. Any such repayment will be subject to interest at the City's weighted average yield of its investment portfolio from the date the City made the payment to the date of Developer's repayment. In the event the City is

informed by the state comptroller or otherwise believes that a refund will be required, the City will inform the Developer as soon as practicable and the Developer may contest such determination.

(f) Funding Source. The City is funding this Agreement exclusively from the municipal sales and use tax it will receive from Ravenwood Village under the provisions of Chapter 321 of the Texas Tax Code. Should any legal impediment arise during the term of this Agreement, including a change in law, that prevents or prohibits the City from complying with or making future payments under this Agreement, the City may terminate this Agreement without further liability to Developer.

(g) Amounts payable under this Agreement constitute economic development funds under Art. III, Sec. 52-a, Texas Constitution, are not secured by a pledge of ad valorem taxes or financed by the issuance of any bonds or other obligations payable from ad valorem taxes of the City, and therefore are not considered to be a constitutional debt of the City.

5. **Term.** This Agreement is effective on 4/24, 2007 (the "effective date"), and terminates on the earlier of (i) December 31, 2020, (ii) the expiration of ten (10) years from the date of issuance of Target's permanent Certificate of Occupancy or (iii) until such time that the aggregate payments to Developer equal \$6,000,000, unless terminated earlier as allowed in this Agreement.

6. Termination.

(a) Any party may terminate this Agreement during its term as provided in this paragraph if a party breaches this Agreement. The party alleging the breach will give the other party notice of the breach in writing. If the breaching party fails to cure the breach within 60 days of the date of the notice, the party giving the notice may terminate this Agreement by written notice to the other party, specifying the date of termination.

(b) No party may be deemed to be in breach of this Agreement if performance of this Agreement is delayed, disrupted, or becomes impossible because of any act of God, war, terrorism, earthquake, fire, strike, accident, civil commotion, epidemic, act of government, its agencies or offices, or any other cause beyond the control of the parties during the time, but only for so long as the event of force majeure reasonable prevents performance.

7. Miscellaneous Provisions.

(a) Remedies Cumulative. The rights and remedies provided in this Agreement or under other laws are cumulative and the exercise of any particular right or remedy does not preclude the exercise of any other right or remedy.

(b) Law Governing and Venue. This Agreement is governed by the laws of the State of Texas and a lawsuit may only be prosecuted on this Agreement in a court of competent jurisdiction located in or having jurisdiction in Walker County, Texas.

(c) Notices. Any notice required to be given by one party to another must be given in writing addressed to the party to be notified at the address set forth below, (1) by delivering the notice in person, (2) by depositing the notice in the U. S. Mail, certified or registered, return receipt requested, postage prepaid, (3) by depositing the notice with Federal Express or another nationally recognized courier service for next day delivery, or (4) by sending the notice by telefax with confirming copy sent by mail. Notice deposited in the U.S. Mail is deemed effective on the date of deposit. Notice given in any other manner is effective when received by the party to be notified. For the purposes of notice, the addresses of the parties to whom notice is to be given, until changed by given notice to the other as provided herein, is as follows:

If to the City: City of Huntsville, Texas
 Attn: City Manager
 1212 Ave. M
 Huntsville, Texas 77340
 Fax: 936-291-5409

If to Developer: Ravenwood Village, Ltd.
 c/o Property Commerce, Inc.
 Attn: Jay Williams, President
 11000 Brittmoore Park Drive, Suite 100
 Houston, Texas 77041
 Fax: 713-860-0650

(d) Assignment. Developer may not assign this Agreement or any right under this Agreement to any other person or entity unless the City consents in writing to the assignment, which consent may be withheld at City's discretion; provided that, the Developer may (i) collaterally assign revenues payable under this Agreement to a lender without City consent so long as the Developer notifies the City of such collateral assignment in writing, or (ii) assign to a successor in ownership of a majority in value of the property or the anchor tenant if the assignee agrees to be bound by the terms of this agreement in writing provided to the City.

(e) Severability. If any provision of this Agreement is declared void or illegal by any court or administrative agency having jurisdiction, the remaining provisions continue in effect.

(f) Mediation. In the event of a dispute or controversy between the Parties arising from this Agreement, the Parties agree that representatives of each will meet to discuss

the matter and seek a mutual resolution. Failing a resolution, before initiating litigation, the Parties will, upon written demand of one Party, submit the dispute to mediation. If the Parties are unable to agree on a mediator, a panel consisting of the County Court at Law Judge and two District Judges of Walker County, Texas, shall appoint a mediator.

(g) Ambiguities. The Parties acknowledge that each has reviewed this document and has had the opportunity for their respective attorneys to review it. The Parties agree that the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments or exhibits to it.

(i) Entire Agreement. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in this Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached to and made a part of this Agreement. Provided, however, the Parties acknowledge this Agreement is made in association with the *City of Huntsville TIRZ#1 Development Agreement for Ravenwood Village Project*, executed on the same date herewith, covering other matters relevant to the project which is subject of this Agreement; these Agreements should be considered in harmony with one another.

[Execution pages follow.]

CITY OF HUNTSVILLE

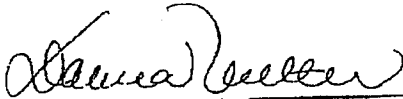
By: 

Kevin P. Evans, City Manager

Date: April 24, 2007RAVENWOOD VILLAGE, LTD.
a Texas limited partnershipBy its general partner RV-GP, LLCBy: Name: Jay WilliamsTitle: Managing Member

Date: _____, 2007

ATTEST:



Danna Welter, City Secretary

ATTEST:

_____, Corporate Secretary

APPROVED AS TO FORM:

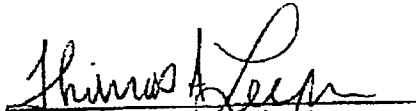

Thomas A. Leeper, City Attorney

Exhibit "A"-

Exhibit "B"-

Exhibit "C"-

Appendix ...

03:04 2007 15:00 FAX 2816683450

PROPERTY-COMMERCE-MGMT

005

EXHIBIT "B" CONCEPT PLAN

LAND USAGE STUDY
FOR
TARGET
HUNTSVILLE, TX
INTERSTATE HWY 45 AT BROTHER ROAD
HUNTSVILLE, TEXAS

RAVENWOOD
VILLAGE
BY



10000 HITTMOORE PARK DR. SUITE 200
HOUSTON, TEXAS 77041
713.668.4400
FAX: 281.668.3450
www.target.com



TERRA
ASSOCIATES, INC.
CONSULTING ENGINEERS
2000 W. GULF HWY. SUITE 200
HOUSTON, TEXAS 77058
713.668.1000 FAX: 713.668.1001

TERRA
ASSOCIATES, INC.
CONSULTING ENGINEERS
2000 W. GULF HWY. SUITE 200
HOUSTON, TEXAS 77058
713.668.1000 FAX: 713.668.1001



TERRA
ASSOCIATES, INC.
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HOUSTON, TEXAS 77058
713.668.1000 FAX: 713.668.1001

27/01/2007

**CONCEPTUAL
SITE DEVELOPMENT
PLAN - SCHEME R**
PLAN R - PRELIMINARY OF PROPOSED DEVELOPMENT IN CONJUNCTION
WITH THE PROPOSED INTERSTATE 45 PROJECT

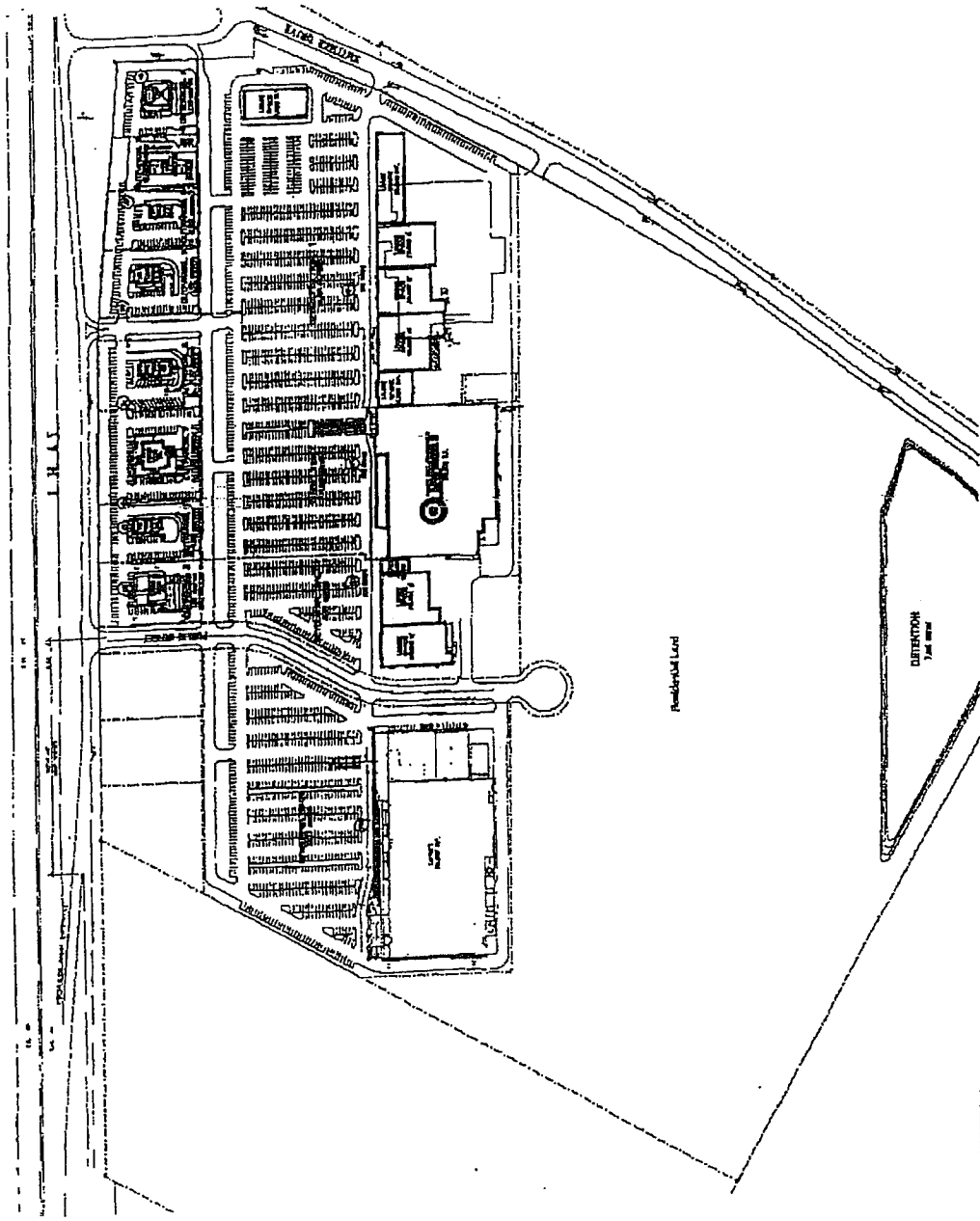
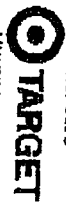
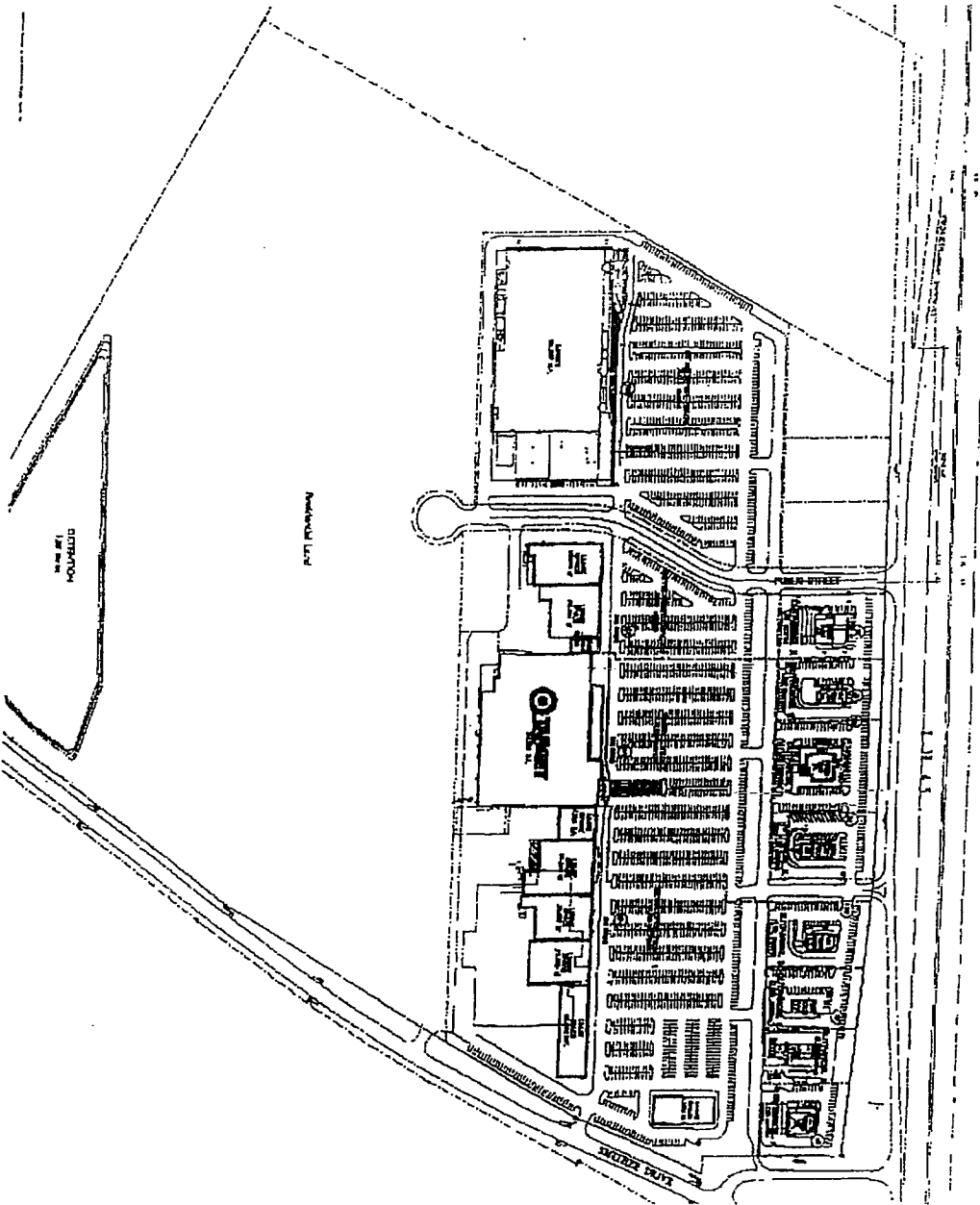


EXHIBIT "B" CONCEPT PLAN



LAND USAGE STUDY
FOR
PROPOSED

HUNTSVILLE, TX
INTERSTATE HWY 44 AT SHIRTER ROAD
HUNTSVILLE, TEXAS

RAVENWOOD
VILLAGE
BY



1800 BRIDGEMORE PARK DR, SUITE 200
HOUSTON, TEXAS 77041
TEL: 281.943.4100
FAX: 281.943.4110
WWW.TARGET.COM



TERRA

1800 BRIDGEMORE PARK DR, SUITE 200
HOUSTON, TEXAS 77041
TEL: 281.943.4100
FAX: 281.943.4110
WWW.TARGET.COM



2/18/2007

CONCEPTUAL
SITE DEVELOPMENT
PLAN - SCHEME R

ORDINANCE NO. 2009-08B

AN ORDINANCE AMENDING THE PERFORMANCE AGREEMENT BETWEEN THE CITY OF HUNTSVILLE, TEXAS AND RAVENWOOD VILLAGE, LTD. FOR RAVENWOOD VILLAGE DEVELOPMENT; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, on April 24, 2007, under the provisions of Chapter 380 of the Texas Local Government Code, the City Council authorized a Performance Agreement Between the City of Huntsville, Texas, and Ravenwood Village, Ltd. for Ravenwood Village Development (the "Performance Agreement");

WHEREAS, the Agreement and Program were made in association with the *City of Huntsville TIRZ#1 Development Agreement for Ravenwood Village Project* as part of a larger project which was to include a residential phase, and the agreements are explicitly tied together, and Performance Agreement incentives were to help offset lot development cost for single-family residences;

WHEREAS, no progress has been accomplished for the residential phase and significant national economic factors have rendered new residential development impractical; and

WHEREAS, the City Council desires to amend the Performance Agreement; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, TEXAS, that:

SECTION 1: Findings.

A. The facts and recitations contained in the preamble of this ordinance are found to be true and correct and are adopted as part of this ordinance for all purposes.

B. Construction for the commercial phase of the Ravenwood Village Project has commenced and some purchasers and/or tenants have entered binding agreements with the developer of the Project.

C. Under expectation of partial sales tax rebates to be made pursuant to the Performance Agreement, Ravenwood Village, Ltd., as developer of the Ravenwood Village Project has agreed to certain terms related to the partial sales tax rebates in agreements with retailers to be located in the commercial phase of the Project.

D. Revising the Performance Agreement is beneficial to the Public.

SECTION 2: Amendment.

A. Section 4.(b) of the Performance Agreement is hereby amended to provide that City will pay Developer 50.0% of the Sales Tax the City receives from Ravenwood Village, minus any discounts or administrative fees, until December 31, 2020, the expiration of ten (10) years from the date of issuance of Target's permanent Certificate of Occupancy or until such time that the aggregate payments to Developer equal \$4,380,000, whichever occurs first. In all other respects, Section 4.(b) shall remain the same.

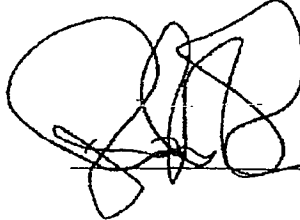
B. The amount in Section 5.(iii) is amended to be "\$4,380,000."

SECTION 3: If any portion of this Ordinance shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the City Council determines that it would have adopted this Ordinance without the invalid provision.

SECTION 4: This Ordinance shall take effective immediately from and after the date of its passage.

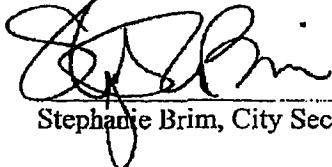
PASSED AND APPROVED THIS 11TH DAY OF NOVEMBER 2008.

CITY OF HUNTSVILLE, TEXAS



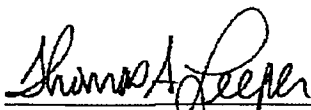
J. Turner, Mayor

ATTEST:



Stephanie Brim, City Secretary

APPROVED AS TO FORM:



Thomas A. Leeper, City Attorney

Contract No. 1

TRINITY RIVER AUTHORITY OF TEXAS - CITY OF
HUNTSVILLE RAW WATER SUPPLY CONTRACT

THE STATE OF TEXAS :

COUNTY OF WALKER :

THIS CONTRACT (hereinafter called "Contract") made and entered into as of the 24th day of August, 1976, by and between Trinity River Authority of Texas, a governmental agency and a body politic and corporate, created by Chapter 518, Acts of the Regular Session of the 54th Legislature, pursuant to Article XVI, Section 59 of the Constitution of Texas (herein called "Authority"), and the City of Huntsville, Texas, a municipal corporation of the State of Texas, acting under the laws of the State of Texas and its home rule charter (herein called "City"):

W I T N E S S E T H

WHEREAS, Authority and City are authorized to enter into this Contract by the Interlocal Cooperation Act; and

WHEREAS, City owns and operates its water distribution system and is in need of an additional source of water supply; and

WHEREAS, Authority holds jointly with the City of Houston, Texas, Permit No. 1970 pursuant to which Authority is authorized to appropriate and divert from the Livingston Reservoir 30% of the water impounded therein; and

WHEREAS, it is the desire of City to acquire the right to purchase from Authority amounts of raw water impounded in the Livingston Reservoir under Permit No. 1970;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, Authority agrees to sell raw water to City and City agrees to pay Authority standby charges for the right to purchase raw water upon terms and conditions herein-after set forth, to-wit:

Section 1. QUANTITY OF AND STANDBY CHARGE FOR RAW WATER.

A. QUANTITY OF RAW WATER. Authority is hereby obligated

to sell to City annual average daily amounts of raw water impounded in the Livingston Reservoir under Permit No. 1970 during the period of this agreement for its own use and for distribution to all of the customers served by City's distribution system, as set forth in the following schedule:

<u>FISCAL YEARS</u>	<u>ANNUAL AVERAGE DAILY AMOUNTS</u>
1977 through 1979	2.0 MGD
1980 through 1984	4.0 MGD
1985 through 1994	6.0 MGD
1995 through 1999	8.0 MGD
2000 through 2020	10.0 MGD

"MGD" is an abbreviation for "million gallons of water per day" and refers to a quantity of water during a period of time expressed for convenience in terms of an average daily quantity during a twelve (12) month period, being City's present fiscal year which begins on October 1 and ends on September 30. The value of two MGD, for example, is calculated as follows: Two million gallons multiplied by the number of days in a calendar year.

City shall have the option, at any time and from time to time, to increase the amounts set forth above by giving notice in writing to Authority not less than twelve (12) months prior to the effective date of such increase, whereupon such increased amount shall be effective from and after such effective date for the remaining term of this agreement or until City establishes a further increase in the same manner. With Authority's approval, such increase may become effective in less than twelve (12) months after written notice is given and may exceed ten (10) MGD. Authority will use its best efforts to remain in position to sell to City a maximum daily amount of raw water up to and including a 100% increase over the current annual average daily amount which Authority is obligated to sell to City. City's right to take such amounts of raw water is conditioned on Authority's rights

under said Permit No. 1970 and Authority's contract with the City of Houston dated September 4, 1964 (the "Houston Contract"). If Authority's rights under Permit No. 1970 are changed by any action beyond the control of Authority, and any such change reduces, or has the effect of reducing, the amount of water Authority has the right to take, then, in that event, City's rights hereunder shall be reduced proportionately by the percentage of the decrease Authority has the right to take under Permit No. 1970. City is not obligated to purchase any raw water but is obligated for annual standby charges. The annual standby charges shall be calculated by multiplying the current annual average daily amount Authority is obligated to sell to City by Authority's rates for sale of raw water to municipalities as established by Authority's Resolution R-157.

B. ANNUAL STANDBY CHARGE FOR RAW WATER. City agrees that on or before the 10th day of each March and September beginning September, 1976, it will pay to the Authority an amount equal to 1/2 of the current annual raw water standby charge, calculated as provided in Section 1A hereof. Prior to September, 1976, the Authority will advise City in writing of the current annual raw water standby charge, and, thereafter, will advise City in writing only upon a change therein. The Authority shall not be required to furnish bills to City for raw water standby charges. Provided, the cost of raw water to City shall never be less than the cost of such raw water to Authority, as determined by Authority. If Permit No. 1970, the Houston Contract or any other controlling document is changed outside of the control of Authority, which obligates Authority to costs not anticipated in the present rate structure established by R-157, then Authority

shall redetermine its cost of water in Livingston Reservoir and City's payments hereunder shall be calculated as provided in Section 1A hereof, but using the newly established rate structure.

C. PAYMENT FOR EXCESS WATER TAKEN. Within ten days after each City Fiscal Year, beginning with City Fiscal Year 1977, Authority shall determine the amount of water City has taken from Lake Livingston Reservoir during the preceding City Fiscal Year. If City has taken, during any such year an amount of water in excess of the amount Authority is obligated to sell to City hereunder, according to the yearly schedule set out in Section 1A hereof, then City agrees to pay to Authority, in addition to the standby charge, for such excess water taken, at the rate upon which the annual raw water standby charge for the preceding year was calculated. Authority will bill City for any payment due under this sub-section by September 15 and City shall pay the amount of such bill to Authority by October 1.

Section 2. SPECIAL PROVISIONS.

A. SOURCE OF CONTRACT PAYMENTS. Authority shall never have the right to demand payment by City of any obligations assumed by it or imposed on it under and by virtue of this contract from funds raised or to be raised by taxes levied by City. City's obligations under this contract shall never be construed to be a debt of the City of such kind as to require it under the law of this State to levy and collect a tax to discharge such obligation, it being expressly understood by the parties hereto that all payments due by City hereunder are to be made from water and sewer revenues received by City.

City represents and covenants that all payments to be made hereunder by it shall constitute "Operating Expenses" of its

waterworks and sewer system as defined in Article 1113 of the Revised Civil Statutes of Texas, as amended, and that all such payments will constitute operating expenses of City's waterworks and sewer system.

City agrees to fix and collect such rates and charges for water and sewer services to be supplied by its waterworks and sewer system as will produce revenues in an amount equal to at least the minimum payments due under this contract and other contracts with the Authority and to comply with provisions of ordinances authorizing its outstanding revenue bonds.

B. FORCE MAJEURE. If by reason of force majeure either party hereto shall be rendered unable wholly or in part to carry out its obligations under this contract then if such party shall give notice and full particulars of such force majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied on, the obligation of the party giving such notice, so far as it is affected by such force majeure, shall be suspended during the continuance of the inability then claimed, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of public enemy, orders of any kinds of the Government of the United States or the State of Texas or any Civil or military authority, insurrection, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, partial or entire failure of water supply, and inability on part of Authority to deliver water hereunder for any

reason, or the City to receive water hereunder for any reason, or on account of any other causes not reasonably within the control of the party claiming such inability.

C. STATE OR FEDERAL LAWS RULES, ORDERS OR REGULATIONS.

This contract is subject to all applicable Federal and State laws and any applicable ordinances, rules, orders and regulations of any local, state or federal governmental authority having or asserting jurisdiction, but nothing contained herein shall be construed as a waiver of any right to question or contest any such law, ordinance, order, rule or regulation in any forum having jurisdiction.

Section 3. TERM OF CONTRACT; NOTICES.

A. TERM OF CONTRACT. This contract shall be effective upon the date hereof and shall continue in force and effect until December 31, 2020.

B. ADDRESSES AND NOTICE. Unless otherwise provided herein, any notice, communication, request, reply or advice (herein severally and collectively, for convenience, called "Notice") herein provided or permitted to be given, made or accepted by either party to the other must be in writing and may be given or be served by depositing the same in the United States mail postpaid and registered or certified and addressed to the party to be notified, with return receipt requested, or by delivering the same to an officer of such party, or by prepaid telegram when appropriate, addressed to the party to be notified. Notice deposited in the mail in the manner hereinabove described shall be conclusively deemed to be effective, unless otherwise stated herein, from and after the expiration of ten (10) days after it is so deposited. Notice given in any other manner shall be effective

only if and when received by the party to be notified. For the purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to the Authority, to:
 Trinity River Authority of Texas
 P. O. Box 5768
 2723 Avenue E - East
 Arlington, Texas 76011

If to the City, to:
 City of Huntsville
 P. O. Box 831
 Huntsville, Texas 77340

The parties shall have the right from time to time and at any time to change their respective addresses and each shall have the right to specify as its address any other address by at least fifteen (15) days' written notice to the other party.

Section 4. SEVERABILITY. The parties hereto agree that if any of the provisions of this contract should be or be held to be invalid or to contravene the laws of this State, or the United States, such fact shall not invalidate the whole agreement, but it shall be construed as though not containing that particular provision, and the rights and obligations of the parties shall be construed and remain in force accordingly.

Section 5. REMEDIES UPON DEFAULT. It is not intended hereby to specify (and this agreement shall not be considered as specifying) an exclusive remedy for any default, but all such other remedies (other than termination) existing at law or in equity may be availed of by either party hereto and shall be cumulative. Recognizing however, that the Authority's undertaking to provide and maintain a supply of water hereunder is an obligation, failure in the performance of which cannot be adequately compensated in money damages alone, the Authority agrees, in the event of any default on its part, that the City shall have available to it the equitable remedy of specific performance in addition

to any other legal or equitable remedies (other than termination) which may also be available to the City. Recognizing that failure in the performance of any of the City's obligations hereunder could not be adequately compensated in money damages alone, the City agrees in the event of any default on its part that the Authority shall have available to it the equitable remedy of specific performance in addition to any other legal or equitable remedies (other than termination) which may also be available to the Authority. Notwithstanding anything to the contrary contained in this agreement, any right or remedy or any default hereunder shall be deemed to be conclusively waived unless asserted by a proper proceeding at law or in equity within two (2) years after the occurrence of such default. No waiver or waivers of any breach or default (or any breaches or defaults) by either party hereto of any term, covenant, condition, or liability hereunder or of performance by the other party of any duty or obligation hereunder shall be deemed a waiver thereof in the future, nor shall any such waiver or waivers be deemed or construed to be waiver of subsequent breaches or defaults of any kind, character, or description, under any circumstances.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governing bodies have caused this contract to be duly executed in several counterparts, each of which

shall constitute an original, all as of the day and year first
above written.

TRINITY RIVER AUTHORITY OF TEXAS
BY David H. Brune
DAVID H. BRUNE, General
Manager

ATTEST:

Wm. J. Philbin
WM. J. PHILBIN, Secretary

(AUTHORITY SEAL)

CITY OF HUNTSVILLE, TEXAS

BY Wm. L. Waller
Mayor

ATTEST:

Rich. A. Shaw
City Secretary

(CITY SEAL)

APPROVED AS TO LEGALITY:

Joel H. Henny
City Attorney

MINUTES OF THE HUNTSVILLE CITY COUNCIL MEETING HELD ON THE 17TH DAY OF OCTOBER 2006, IN THE CITY HALL, LOCATED AT 1212 AVENUE M IN THE CITY OF HUNTSVILLE, COUNTY OF WALKER, TEXAS AT 6:00 P.M.

The Council met in a regular session with the following members present:

COUNCILMEMBERS:

J. Turner	Bob Tavenner
Mickey Evans	Dalene Zender
Melissa Mahaffey	Mac Woodward
Jack Choate	Clarence Griffin
Jim Willett	

OFFICERS:

Kevin Evans, City Manager
Danna Welter, City Secretary
Thomas Leeper, City Attorney

CALL TO ORDER [6:00 p.m.]

Mayor Turner called the meeting to order.

PLEDGE OF ALLEGIANCE to US AND TEXAS FLAGS, INVOCATION

Councilmember Griffin led the invocation.

PUBLIC COMMENTS (Agenda Items Only)

- a. Will Durham, Charles Rushing and Jack Remeny spoke in favor of the City exercising water option with Trinity River Authority.

PRESENTATIONS

- a. Proclamation - United Way of Walker County Golden Jubilee Month.
- b. Proclamation - Municipal Court Week.
- c. Clean Up Task Force - New Addition, as presented by Mike Roempke, Chief Building Inspector.

CONSENT AGENDA

- a. Consider minutes of October 3, 2006. [Danna Welter]
Councilmember Choate made a motion to approve the consent agenda, and Councilmember Tavenner seconded the motion. The motion passed unanimously.

STATUTORY AGENDA

- a. Approve annual purchase of workstations/servers/printers scheduled for replacement according to the City's replacement schedule, as presented by Chris Vasquez, IT Coordinator.
This request is for approval for an annual purchase of workstations/servers/printers scheduled for replacement according to the City's replacement schedule.

FISCAL IMPACT or FUNDING SOURCE:

Budgeted account number is 309-655-52200 (Non Capital Equipment Purchases). Available budget is \$73,358.00.
Budgeted account number is 309-655-69020 (Cap. Mach/Tools/Equip). Available budget is \$27,500.00.
Total available budget is \$99,858.00.

Councilmember Woodward made a motion to approve annual purchase of workstations/servers/printers scheduled for replacement according to the City's replacement schedule, and Councilmember Evans seconded the motion. The motion passed unanimously.

- b. Approve purchase of a 2007 Mack Cab/Chassis with a Peterson TL3 Lightning Dual Loader, a heavy duty trash truck with a grapple arm, as presented by Bill Daugette, Director of Public Utilities.
The purchase of this truck will allow the City of Huntsville to offer for the first time, scheduled and on-call heavy trash pick up and recycling in a cost effective manner, reducing labor and landfill tipping fee costs. Availability of this equipment will also give the City an ability to respond rapidly to the need for heavy debris removal in emergency situations caused by storm or hurricane wind damage.

The City was awarded a \$175,288 Houston-Galveston Area Council Fiscal Year 2007 Solid Waste Implementation Grant to purchase the heavy duty truck. Pricing was obtained through two State of Texas Purchasing Cooperatives: H-GAC and the Texas Local Government Buy Board. All competitive bidding requirements and regulations are met when purchasing through State of Texas Purchasing Cooperatives.

FISCAL IMPACT or FUNDING SOURCE: \$175,287.88 – Fiscal Year 2007 H-GAC Solid Waste Implementation Grant.

Councilmember Willett made a motion to approve purchase of a 2007 Mack Cab/Chassis with a Peterson TL3 Lightning Dual Loader, a heavy duty trash truck with a grapple arm, and Councilmember Griffin seconded the motion. The motion passed unanimously.

- c. Consider Ordinance 2006-10-17.1 amending the existing Traffic Schedules to define angle parking areas, as presented by Thomas Leeper, City Attorney.

For very many years, the City has had angle parking and straight-in parking in several areas of the City. The longstanding practice is evidenced by pavement markings. At some point in time, the Texas Transportation Code was amended to provide that parking on public roads, where allowed, should be accomplished by parallel parking, but that a local

authority may by ordinance permit angle parking. The City has continued providing angle parking in certain areas but has not formally defined these areas "by ordinance".

Councilmember Woodward made a motion to Consider Ordinance 2006-10-17.1 amending the existing Traffic Schedules to define angle parking areas, and Councilmember Choate seconded the motion. The motion passed unanimously.

- d. Consider Ordinance 2006-10-17.2 amending the City's Code of Ordinances providing general authority for penalties for violation of Huntsville Ordinances, as presented by Thomas Leeper.

The Texas Legislature amended the Texas Penal Code to require the inclusion of a culpable mental state for certain offenses defined by municipal ordinance. The proposed amendment to Section 2.01.08 will define an appropriate culpable mental state for ordinance violations where such is not otherwise specifically defined.

Councilmember Choate made a motion to consider Ordinance 2006-10-17.2 amending the City's Code of Ordinances providing general authority for penalties for violation of Huntsville Ordinances, and Councilmember Woodward seconded the motion. The motion passed unanimously.

- e. Authorize City Manager to enter into a Construction Contract with Grisham Construction for an amount not to exceed \$122,167.69 for the construction of sewer lines and appurtenances along Pine Hill Road, as presented by Steve Stacy, Director of Public Works.
This item was pulled from this agenda.

- f. Consider proposed contract with the Boys & Girls Club of Walker County for after-school-type recreation programming at Martin Luther King Jr. facility, as presented by Stephanie Brim, Director of Community Services.

In spring 2006 the Boys and Girls Club of Walker County brought forth a proposal to provide recreational programming at the Martin Luther King, Jr. Center. The City has provided this programming in the past, although unsuccessful efforts in improving declining attendance led to program reductions and eventually termination. The Boys & Girls Club has proposed running an after-school recreation program five days a week from 3:00-6:00pm following the HISD school calendar (with the potential for program expansion). This is different from an after-school on-campus program in that it is NOT licensed child care but rather true recreational programming, although tutoring and other grade improvement assistance is offered in the programming. At their October 9, 2006 meeting, the Parks and Recreation Advisory Board ("Board") voted unanimously to forward this contract to the City Council for approval.

Staff have visited the current Boys & Girls Club program at Scott Johnson Elementary, and have met with the Executive Director, Regional Director and Boys & Girls Club Board members regarding this potential partnership. The proposed contract generally calls for the City to provide location (MLK Center) with utilities, and funding to the Boys & Girls Club for two staff members for the program. Boys and Girls Club will provide oversight to the programming, any additional staffing needed, and all other materials for programming. Additionally, the contract includes scholarship opportunities for up to 100 annual memberships, the only one-time cost to participants, at a cost of \$15 each. Funding of both the employees and the scholarships will be paid on a monthly basis, as verified.

There is a provision requiring regular reporting from the Boys & Girls Club, although the goals and objectives are not specifically delineated in this contract. Parks and Recreation Advisory Board members have requested additional information regarding the goals and objectives of the Boys & Girls Club; these have been provided to the Board for discussion at their next regular Board meeting (and are included in this packet).

FISCAL IMPACT / FUNDING SOURCE:

(1) Included in this year's budget is \$9,000 specifically for after-school recreational programming at the MLK Center. The total for the staffing is written not exceed \$10,080 contractually, and given the start time did not coincide with the start of the school year, this total will probably not be realized.

(2) Additionally, \$1,500 is included in a line item in the contract for scholarship opportunities.

(3) All funds will be paid from the Recreation Division Youth and Recreation Programs line item (101-421-57375) for a total not to exceed \$11,580.

Councilmember Zender made a motion to approve the contract with the Boys & Girls Club of Walker County for after-school-type recreation programming at Martin Luther King Jr. facility in an amount not to exceed \$11,580, and Councilmember Mahaffey seconded the motion. The motion passed unanimously.

- g. Consider Ordinance 2006-10-17.3 authorizing the City Attorney to make an offer for the City of Huntsville for the acquisition of certain interests in property that is required for public purpose (utility easement and temporary construction easement) in the First Star South Subdivision, Section 3, in the Malcolm Johnson Survey, A-299, Walker County, Texas; Directing the City Attorney to institute eminent domain proceedings, as presented by Thomas Leeper.
This item was discussed in executive session.

MAYOR / COUNCILMEMBER / CITY MANAGER REPORT

- a. Approve Resolution 2006-10-17.1, endorsing the placement of a plaque at the National Guard Armory to be provided through private donations to honor the men of the Texas 36th Division, Second World War, as presented by Mayor J. Turner.

Mayor Turner made a motion to approve Resolution 2006-10-17.1, endorsing the placement of a plaque at the National Guard Armory to be provided through private donations to honor the men of the Texas 36th Division, Second World War, and Councilmember Evans seconded the motion. The motion passed unanimously.

- b. Discuss and take action to authorize the City Manager to exercise water option with Trinity River Authority as presented by Councilmember Mac Woodward.
Councilmember Woodward made a motion to authorize the City Manager to exercise the water option with Trinity River Authority, and Councilmember Choate seconded the motion.
Following the motion, City Council adjourned to Executive Session.
- c. Consider and take action on a comprehensive water supply policy as presented by Mayor J. Turner.
Mayor Turner made a motion to direct staff to pursue the four comprehensive aspect to water to benefit the City, and Councilmember Mahaffey seconded the motion.
After discussion, Mayor Turner and Councilmember Mahaffey withdrew the motion.
- d. Annual evaluation of Charter Officers – City Attorney and City Judge.
This item was not discussed.

PUBLIC COMMENTS

1. Ray Martin. Mr. Martin read a statement from SHSU Student Body President, Christopher Whitaker, stating his thanks for the support of City Council and the community at the Campus Community Town Hall event.
2. Jason Myers. Mr. Myers stated that Sigma Chi Fight Night would be coming up soon and asked for Council's support of this event. He stated that this is a charitable event and the proceeds this year will help build a memorial at the Veteran's Museum.

MEDIA

None.

EXECUTIVE SESSION [8:15 p.m. – 8:37 p.m.]

RECONVENE [8:41 p.m.]

Councilmember Tavenner made a motion to authorize the City Attorney to make an offer for the acquisition of certain interests in real property required for public purpose (utility easement), and Councilmember Griffin seconded the motion. The motion passed unanimously.

A vote was taken on the following motion previously made:

Councilmember Woodward made a motion to authorize the City Manager to exercise the water option with Trinity River Authority, and Councilmember Choate seconded the motion.

The motion passed unanimously.

Mayor Turner made a motion stating that the City Council of Huntsville recognizes four component aspects regarding water: quality, distribution, treatment and supply; City Council tasks staff to pursue these objectives: Quality - as a City we wish to pursue upgrading water quality to obtain a State of Texas rating of "outstanding"; Distribution – engineering design of a parallel 30" line from the TRA plant to our facility at Palm Street; Treatment – engineering design of expansion of our surface water treatment plant; and Supply – 20 mgd of TRA water; and Councilmember Mahaffey seconded the motion.

The motion passed 8-1, with Councilmember Tavenner voting against.

ADJOURNMENT [8:45 p.m.]

Danna Welter, City Secretary



CITY OF Huntsville

Incorporated in 1845 under the Republic of Texas

STATE OF TEXAS §

COUNTY OF WALKER §

MINUTE ORDER

Councilmember Woodward made a motion to notify the Trinity River Authority of Texas that the City of Huntsville wishes to exercise its option for an additional 10MGD raw water at the rate of \$0.0283/1000 gals. payable annually in the amount of \$103,295 until the year 2020 as specified under the existing contract, and Councilmember Choate seconded the motion. The motion passed unanimously.

In witness whereof, I have set my hand and affixed the seal of the City of Huntsville, Texas, this 17th day of October 2006.

Danna Welter, City Secretary
City of Huntsville, Texas



CITY OF
Huntsville

Incorporated in 1845 under the Republic of Texas

October 18, 2006

Mr. Danny Vance
Trinity River Authority
P.O. Box 60
Arlington, TX 76004

Re: Trinity River Authority of Texas – City of Huntsville Raw Water Supply Contract
dated August 24, 1976 (the "Contract")

Dear Mr. Vance:

Please accept this letter pursuant to the Contract. This letter provides notice by City of Huntsville (the "City") that it is exercising its option to increase the quantity of raw water Trinity River Authority of Texas (the "Authority") will be obligated to sell City under the Contract by the amount of ten (10) MGD for a total obligation of twenty (20) MGD. The rates and standby charge associated with the increase will be implemented under the current terms.

City requests Authority's approval for the increase to become effective less than twelve (12) months after the date of this written notice. Specifically, City requests the increase to become effective November 1, 2006.

We look forward to Authority's response to this request.

Respectfully,

Kevin P. Evans
City Manager
936-291-5401

KPE/ljl
Encl.

cc: Jimmy Sims
TRA, Southern District Regional Manager
ADMINISTRATION

1212 Avenue M • Huntsville, TX 77340-4608 • 936.291.5400 • 936.291.5409 fax • www.huntsvilletx.gov

Our vision for the City of Huntsville is a community that is beautiful, historic, culturally diverse, affordable, safe, and well planned with great opportunity for our citizens.

Trinity River Authority of Texas

General Office

7005.300

October 30, 2006

Mr. Kevin P. Evans
City Manager
City of Huntsville
1212 Avenue M
Huntsville, Texas 77340-4608

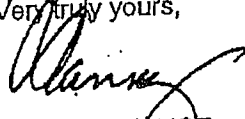
RE: Trinity River Authority of Texas – City of Huntsville Raw Water Supply Contract
Dated August 24, 1976 (the "Contract")

Dear Mr. Evans:

Your letter providing notice of the City's intent to exercise the option in the existing water supply contract with the Trinity River Authority has been received. I am pleased to advise you that Trinity River Authority will honor the option and will sell the city an additional ten (10) MGD for a total obligation of twenty (20) MGD under the current terms of the agreement. TRA also agrees to the city's request that the increase become effective November 1, 2006.

The Authority is pleased to continue serving the city for its water supply needs and looks forward to a long and beneficial relationship with the city of Huntsville.

Very truly yours,


DANNY F. VANCE
General Manager

DFV/cj

AGREEMENT FOR PURCHASE AND DELIVERY OF TREATED WATER

This Agreement for Purchase and Delivery of Treated Water ("Agreement") is entered into this 15th day of June, 1998 ("Effective Date"), by and between the City of Huntsville, Texas, a home rule municipal corporation in Walker County, Texas ("City"), and Tenaska Frontier Partners, Ltd., a Texas limited partnership ("Tenaska"). Whenever used in this Agreement, the term "Party" shall mean City or Tenaska, individually, and the term "Parties" shall mean City and Tenaska, collectively.

RECITALS:

WHEREAS, Tenaska intends to construct, own and operate an electric generating facility together with related equipment and other improvements ("Electric Plant") at a location near Shiro, Grimes County, Texas ("Electric Plant Site"); and

WHEREAS, the Electric Plant will require a substantial volume of water for operation; and

WHEREAS, City contracts with Trinity River Authority ("Authority") for water and water treatment in connection with City's operation of the City's own water production and water transmission facilities for service to the public, and City has the ability to deliver to Tenaska the volume and quality of water required by Tenaska for its operation of the Electric Plant; and

WHEREAS, subject to the terms and conditions of this Agreement, City has agreed to sell to Tenaska and deliver to the Electric Plant certain volumes of treated water with an average turbidity less than 5 NTU units ("Treated Water"); and

WHEREAS, in order to sell and deliver Treated Water to Tenaska it will be necessary to modify, extend, improve and enhance the Authority's water treatment facilities and City's water transmission system (hereinafter Authority's water treatment facilities and City's water transmission system, as any of them may currently exist or are to be modified, extended, improved, and enhanced pursuant to this Agreement, shall be referred to in this Agreement as, the "City's Water System").

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties agree as follows:

1. PURPOSE. The purpose of this Agreement is to define the Parties' contractual rights and obligations relative to the supply of Treated Water to the Electric Plant.

2. TERM OF AGREEMENT.

- (a) This Agreement shall be effective upon its execution by the duly authorized representatives of each Party. Subject to the provisions of the remainder of this paragraph 2, the term of this Agreement shall extend to December 31, 2020, unless this Agreement is earlier terminated in accordance with the provisions of paragraph 13(o) or paragraph 15; provided, however, if Tenaska is then not in material default under this Agreement, Tenaska shall have the option to extend this Agreement for two consecutive 5-year terms ("Extended Term") conditioned upon City then being a party to an agreement ("Extended Raw Water Supply Contract") with the Authority or any of its successors or assigns, in the nature of that of the Huntsville Raw Water Supply Contract entered into as of April 22, 1998 attached to this Agreement as Exhibit "C" ("Raw Water Supply Contract", which shall not be amended without Tenaska's consent); provided, further, that the minimum monthly water charge will be adjusted for each Extended Term as provided in paragraph 5(c). City will use good faith and best efforts to negotiate toward the execution of an Extended Raw Water Supply Contract with a term not to expire prior to December 31, 2030 for the lowest possible water purchase price. Tenaska shall exercise its option(s) under this paragraph 2(a) by delivery of written notice of such exercise to City to be given no later than one hundred eighty (180) days prior to the expiration of the then current term of this Agreement.
- (b) City acknowledges in performing its obligations under this Agreement it is acting as a public utility. City acknowledges that as a public utility it has a duty to provide continuity of service during and after the termination of this Agreement for reasonable rates. In the event the City does not meet such obligations for reasons other than a default by Tenaska, then Tenaska shall, in addition to any other available remedy, be entitled to secure water, including the right to purchase water, including Treated Water, for use at the Electric Plant from any other source, including any other person or entity. Such other person or entity shall have the right, privilege, license and authority to use the Pipeline and the Pump Station (as such terms are defined in paragraph 3 of this Agreement) to deliver up to seven million gallons of water per day to Tenaska without objection or charge by City. To the extent permitted by law now or at any time in the future, City hereby waives any objection to such use and agrees that it shall grant and convey to such other person or entity all right, privilege, license and authority as may then be necessary or appropriate for such purposes. The provisions of this paragraph 2(b) shall survive the expiration or termination of this Agreement for reasons other than default by Tenaska.
- (c) Tenaska shall be entitled to secure water, including the right to purchase water, including Treated Water, for use at the Electric Plant from any other source, including any other person or entity (i) until Tenaska begins receiving delivery of Treated Water through the Pipeline at the Metering Point (as defined in paragraph 4(a)) in volumes identified in paragraph 3(b)(iv) and thereafter as may be permitted

under this Agreement, and (ii) at all times following the expiration or termination of this Agreement. The provisions of this paragraph 2(c) shall survive the expiration or termination of this Agreement.

3. SERVICE TO BE RENDERED. Services to be rendered by the respective Parties shall include the following:

- (a) (i) By no later than 550 days after City's receipt of the Notice to Proceed (as defined in paragraph 3(a)(iii)), the City shall have obtained financing, acquired the necessary easements, licenses and other interests in real estate, designed, engineered, constructed and put in operating condition those facilities, more particularly identified on Exhibit "A" to this Agreement, together with any related appurtenances or facilities (collectively, the "Water Intake/Plant Improvements"). Nothing in this paragraph 3(a)(i) shall be construed to relieve City of any obligation to make the volume of Treated Water available to Tenaska at the Metering Point (as defined in paragraph 4(a)) required by paragraph 3(b)(ii) and paragraph 3(b)(iii) and City shall prioritize all construction work as may be necessary to meet those obligations.
- (ii) By no later than 180 days after City's receipt of the Notice to Acquire Easements (as defined in paragraph 3(a)(iii)), City shall have acquired the necessary easements, licenses and other interests in real estate to enable City and Tenaska to construct, operate, maintain, repair and replace a 32 mile pipeline with a maximum capacity to convey 8.4 million gallons of water per day ("Pipeline") and the Treated Water delivering pump station ("Pump Station") more particularly identified on Exhibit "B" to this Agreement, together with any necessary and related appurtenances or facilities. The locations of the Pipeline and the Pump Station are also identified on Exhibit "B" to this Agreement. The location of the Pump Station shall be referred to in this Agreement as the "Water Plant Site". Except as provided in this paragraph 3(a)(ii), Tenaska shall be solely responsible for the construction of the Pipeline and Pump Station. City shall be responsible and liable for financing the acquisition of the necessary easements, licenses and other interests in real estate to be acquired by City pursuant to this paragraph 3(a)(ii). Tenaska shall be responsible and liable for the other costs necessary to construct the Pipeline and the Pump Station.
- (iii) (1) A "Notice to Acquire Easements" shall mean a written notice from Tenaska to City permitting the City to acquire all necessary easements, licenses and other interests in real estate to comply with its related obligations set forth in paragraphs 3(a)(ii) through 3(a)(iii). The Notice to Acquire Easements shall be delivered to City by no later than one year following the Effective Date. Promptly following

the receipt by City of the Notice to Acquire Easements, subject to the remaining provisions of this paragraph 3(a)(iii), City will initiate all undertakings necessary or appropriate to acquire such interests in real estate. With respect to the City acquiring any easement, license or interest in such real estate, Tenaska shall not be required to reimburse the City any amount or consideration for such easement, license or interest in real estate in excess of the fair market value thereof.

- (2) A "Notice to Proceed" shall mean a written notice from Tenaska to the City directing the City to proceed with its obligations under paragraph 3(a), other than those undertaken as a result of a Notice to Acquire Easements. The Notice to Proceed shall be delivered to City by no later than one year following the Effective Date.
- (3) Until Tenaska delivers a Notice to Proceed to City, City shall not undertake any of its obligations under paragraph 3(a), except as set forth in a Notice to Acquire Easements or as may be necessary to obtain the Authority's approval of the preliminary Plans and Specifications (as defined in paragraph 3(a)(iv)) and the construction and other related documents. Tenaska shall be entitled to review and comment upon such matters prior to City obtaining the Authority's approval.
- (iv) The Water Intake/Plant Improvements, the Pipeline and the Pump Station shall be collectively referred to in this Agreement as "City's Extended Water System"; provided, however, any reference to "City's Water System" in this Agreement shall include City's Extended Water System. Tenaska shall have the right to review and comment upon all designs, engineering plans and specifications ("Plans and Specifications") for construction of the City's Extended Water System, including all architects, engineers and contractors or other professionals utilized by the City in connection with the Plans and Specifications prior to their finalization and implementation. Additionally, Tenaska shall have the right to approve all Plans and Specifications for construction of the Pipeline and the Pump Station. The City shall be responsible and liable for financing the Water Intake/Plant Improvements, which financing shall include all costs of engineering, design, construction, inspection, fees for issuance, attorneys, financial advisors, bond ratings, escrow agents, reserve funds and other obligations typically incurred and financed by the City for similar projects in past transactions with the Authority ("Cost of Financing"); provided, however, unless otherwise approved by Tenaska in writing in advance, the Cost of Financing shall not exceed a principal amount of \$5,560,000, which principal amount does not include the amount required for the bond reserve (not to exceed six (6) months principal and interest) or the cost of issuing the financing

instruments. The Parties estimate that the sum of those two amounts will not exceed \$1,000,000. The Cost of Financing shall be payable over a term of not less than twenty (20) years in substantially equal annual payments over such term.

- (b) (i) City shall use its best efforts to secure from the Texas Natural Resources Conservation Commission and any other appropriate federal or state agency, any necessary authorizations required to supply water to Tenaska or to otherwise meet its obligations under this Agreement in accordance with any applicable time constraints; provided, however, Tenaska shall cooperate with City as shall be reasonably necessary to further City's efforts.
 - (ii) Commencing 365 days after City's receipt of the Notice to Proceed, City shall make available at the Metering Point the volume of Treated Water required by Tenaska, not to exceed two million gallons per day (2 MGD), in order to allow Tenaska to perform functional testing of the Pipeline and the Pump Station and related improvements.
 - (iii) Commencing 380 days after City's receipt of the Notice to Proceed, City shall make available at the Metering Point not less than four million gallons of Treated Water per day (4 MGD).
 - (iv) Commencing 550 days after City's receipt of the Notice to Proceed, City shall make available at the Metering Point seven million gallons of Metered Water (as defined in paragraph 4(a)) per day (7 MGD); provided, however, Tenaska shall not use more than an average of six million gallons of Treated Water per day (6 MGD) during any annual period commencing on the date of commercial operation (collectively, the 7 MGD and average of 6 MGD shall be referred to as the "Supply of Water" or "Water Supplied").
 - (v) City makes no representation or warranty, whether express or implied, that Water Supplied is suitable for Tenaska's purposes. The Treated Water to be provided to Tenaska under this Agreement is not potable.
- (c) Title to the materials and consumables to be incorporated into the Pipeline and Pump Station shall transfer as a donation from Tenaska to the City upon delivery of the same to the construction site and prior to their incorporation or use by Tenaska or its contractors or subcontractors. Tenaska hereby grants, transfers and conveys all of its right, title and interest in such materials and consumables effective as of such date. City hereby accepts the transfer of title to such materials and consumables as a donation as of such effective date. The foregoing transfer of title does not relieve Tenaska of its obligation to construct the Pipeline and the Pump Station nor any obligation for protection, custody, care and operational control of the Pipeline and the Pump Station until the time of completion of the Pipeline, the Pump Station and

the Water Intake/Plant Improvements. The City shall assume all such obligations thereafter except as expressly set forth in connection with the Pipeline set forth in this paragraph 3(c). During the term of this Agreement the City shall not lien, encumber, subordinate, transfer or convey any of its interest in the Pipeline or the Pump Station to any other person or entity without the prior written consent of Tenaska. Throughout the term of this Agreement, City shall repair, replace, operate and maintain all of the City's Water System, other than the Pipeline, in a manner consistent with (i) the terms and provisions of this Agreement, (ii) the Plans and Specifications, (iii) industry practice, and (iv) all applicable federal, state or local laws, statutes, regulations, orders, requirements and codes. Tenaska shall repair, replace and maintain the Pipeline in a manner consistent with (i) the terms and provisions of this Agreement, (ii) the Plans and Specifications, (iii) industry practice, and (iv) all applicable federal, state or local laws, statutes, regulations, orders, requirements and codes at its cost and expense except to the extent made necessary as a result of the negligent act, error or omission of City or its agents or to serve any other customer of City. City authorizes Tenaska to undertake the Tenaska obligations set forth in this paragraph 3(c); provided, however, such obligations shall (i) commence only following the conveyance of the Pipeline to City, and (ii) not create any liability or obligation of any nature whatsoever to any other person or entity including any customer of City (and City hereby waives any claim against Tenaska therefor or in connection therewith).

- (d) (i) Tenaska shall purchase Treated Water solely and exclusively from the City in accordance with the provisions of this Agreement. Except as otherwise permitted in paragraph 2(b), 2(c) or this paragraph 3(d), Tenaska shall not purchase water from any other supplier without obtaining the prior written consent of the City; provided, however, Tenaska shall be entitled to purchase or otherwise obtain and use water from other sources whenever (1) the Supply of Water is Interrupted (as defined in paragraph 7(a)) or City does not deliver the Supply of Water because of an Excusable Interruption (as defined in paragraph 7(b)), but only during the period of Interruption or Excusable Interruption; (2) City fails to deliver the volume of Treated Water required by this Agreement; or (3) this Agreement is terminated. If Tenaska purchases or otherwise obtains water from a person or entity other than the City whenever allowed by paragraph 2(b), paragraph 2(c), this paragraph 3(d)(i) or paragraph 3(d)(ii), then Tenaska shall have the right to contribute such water to the City, and the City shall make such amount of water available to Tenaska at the Metering Point at no charge and otherwise in accordance with the delivery conditions required under this Agreement. If City shall not make such water so available to Tenaska, then such person or entity shall have the right, privilege, license and authority to use the Pipeline and the Pump Station to deliver such water to Tenaska without objection or charge other than reasonable operation and maintenance expenses related to the Pipeline and Pump Station, by the City or any of its successors or assigns. The

provisions of this paragraph 3(d)(i) shall survive the expiration or termination of this Agreement.

- (ii) Tenaska shall not use any other water source for its commercial operation at the Electric Plant Site other than the City's Water except as follows: (1) for potable water for consumption and typical indoor office use, (2) whenever permitted by paragraph 3(d)(i), and (3) for any water required for Tenaska's operations of its administration building.

4. METERING POINT.

- (a) A metering station with all pertinent metering equipment shall be owned, installed, continually operated and maintained, tested, calibrated and adjusted by the City, to be located at a point designated by the City and where the Supply of Water enters the Pipeline ("Metering Point") on property of the City or the Authority near the Water Plant Site. The metering station shall be capable of providing accurate and continuous measurements and recording of the quality of Treated Water, rate of Treated Water flow, and volume of Treated Water. Tenaska bears the responsibility for maintaining the Treated Water quality and flow rate at any point on its side of the Metering Point. City shall test all metering equipment at least annually and shall maintain the equipment within acceptable industry standards of accuracy. Acceptable accuracy shall be variation within plus or minus three percent (3%) at the manufacturer's recommended testing range. Upon either Party's request such metering equipment may be retested at the requesting Party's expense. If upon test, said Treated Water metering equipment is found to be in error by not more than three percent (3%), then any previous records produced based on such meter shall be deemed accurate, but such meter shall be immediately adjusted to record more accurately. If such metering equipment is found to be in error by more than three percent (3%), then the Parties shall use reasonable efforts to determine the volume of Treated Water actually metered at the Metering Point ("Metered Water"; provided, however, "Metered Water" shall not include any water delivered through the Pipeline for the benefit of any other customer of City) during the period affected by such error, and the equipment shall be adjusted to record accurately. City shall notify Tenaska of the scheduled time and date of each test at least three (3) days in advance of each test and Tenaska shall have the right to have a representative present at the time of any test.
- (b) City and Tenaska shall each have the right to have their respective representatives examine and audit the other Party's records concerning the quality, volume and flow rate of Water Supplied to Tenaska at the Metering Point.
- (c) The City shall supply at least monthly, upon request by Tenaska, a chemical analysis report of the Treated Water prepared by the City's laboratory or designee which report shall include an analysis of raw water and clarified water for the analyses

similar to that set forth in the example on the attached Exhibit "D". In the event Tenaska desires a more comprehensive chemical analysis of the Water Supplied, then the cost of such shall be borne by Tenaska.

- (d) The City reserves the right of reasonable access to the Electric Plant Site to be limited to those times reasonably agreed to in advance by Tenaska to make inspections of the Pipeline that may affect the quality of the Treated Water or rate of flow and perform reasonably required tests.
- (e) The Parties understand that due to the nature of the Electric Plant, when Treated Water will be taken and the rate at which the Water Supply will be taken will fluctuate. However, City and Tenaska will make reasonable efforts to deliver and take, respectively, Treated Water at a relatively uniform rate over a 24-hour period. Tenaska and the City agree that the Authority will be permitted to control and operate the Pump Station as a part of the water plant's operations; provided that this provision shall not be construed to relieve the City of any of its obligations under this Agreement.

5. RATES, INVOICING AND PAYMENT; LATE CHARGE; TERMINATION OF WATER SERVICE. During the term of this Agreement, Tenaska shall pay the City for the City's services as follows:

- (a) Predelivery. Prior to the date City begins to deliver Treated Water through the Pipeline to Tenaska in volumes required by paragraph 3(b)(iv), Tenaska shall pay to the City the following amounts:
 - (i) Standby Water Fees. An amount equal to the cost that the City is required to pay to Authority under the Raw Water Supply Contract ("Standby Water Fees"); and
 - (ii) Debt Service. An amount equal to any payments the City is required to pay to the Authority for the Cost of Financing; and
 - (iii) Pipeline Improvements. Subject to the last sentence of paragraph 3(a)(iii)(1), thirty (30) days of receipt of City's invoice itemizing the same, an amount equal to all direct out-of-pocket expenses, reasonably and necessarily incurred by the City, for the acquisition, permitting, design, construction, testing, of the Pipeline right-of-way and the Pipeline, including water used for such tests; and
 - (iv) Predelivery Service Fee. \$2,400 per month.

Payment Due Date. All amounts identified in paragraphs 5(a)(i) and 5(a)(ii) shall be paid to the City by no later than the 28th day of the calendar month preceding the

calendar month in which such payment is required or due to be made by the City to Authority.

- (b) Post Delivery. After the date City has commenced the delivery of Treated Water through the Pipeline to Tenaska in volumes required by paragraph 3(b)(iv), the City will send an itemized invoice to Tenaska and Tenaska shall pay the City for Treated Water the following amounts:

- (i) Minimum Monthly Water Charge. A minimum monthly charge calculated by adding:

- (1) 1/12 of the minimum annual City cost for 2,190,000,000 gallons of raw water in accordance with the Raw Water Supply Contract ("Raw Water Charge"); plus *conf 97*
- (2) 1/12 of the average annual debt service for the Cost of Financing; plus *conf 97*
- (3) 1/12 of \$450,000.00. *conf 97*

- (ii) (1) Volume Charge.

- (a) Until the City reconciles an operating budget from the Authority that includes twelve (12) months of Electric Plant commercial operation as provided hereunder, Tenaska shall pay a volume charge ("Volume Charge") in the amount of \$.40 for each one thousand gallons of Metered Water.

$$\text{Volume Charge} = \frac{\text{Metered Water } (\$.40)}{1,000}$$

- (b) After there has been a reconciliation of such an operating budget, Tenaska shall pay to the City a volume charge equal to the result of multiplying the number for each one thousand gallons of Metered Water times the quotient of the Adjusted Huntsville Regional Water Supply System ("HRWSS") Expenses (i.e., the Authority's expenses ("HRWSS Expenses") for operating the HRWSS, less the line items for all raw water less the line items for all debt service of the HRWSS, including the Cost of Financing, less \$650,000) divided by each one thousand gallons treated by the HRWSS in the twelve (12) month period included in the audit.

$$\text{Volume Charge} = \frac{\text{Metered Water}}{1,000} \left[\frac{\text{HRWSS Expenses} - (\text{Raw Water} + \text{Debt Service} + \$650,000)}{\text{HRWSS Treated Water} / 1,000} \right]$$

- (2) Reconciliation of Water Charge. Within thirty (30) days after the City receives the Annual Audit Report of the Authority, the City will prepare and deliver to Tenaska a reconciliation report ("Reconciliation Report"). The Reconciliation Report will compare the City's actual costs for Metered Water against payments made by Tenaska under paragraph 5(b)(ii) for the Volume Charge ("Reconciled Volume Charge"). The Reconciliation Report shall identify the amount of Metered Water, the actual HRWSS Expenses and the Reconciled Volume Charge. The Reconciled Volume Charge is the result of multiplying each one thousand gallons of Metered Water covered by the Annual Audit Report times the quotient (of the Authority's actual expenses for operating the HRWSS, less the line items for all raw water less the line items for all debt service of the HRWSS, including the Cost of Financing, as all such items are reported in the Annual Audit Report of the Authority, less \$650,000) divided by each one thousand gallons of all water treated by HRWSS.

$$\text{Reconciled Volume Charge} = \frac{\text{Metered Water}}{1,000} \left[\frac{\text{HRWSS Expenses} - (\text{Raw Water} + \text{Debt Service} + \$650,000)}{\text{HRWSS Treated Water} / 1,000} \right]$$

If the Volume Charge paid by Tenaska exceeds the Reconciled Volume Charge, the City will refund the difference to Tenaska when City delivers the Reconciliation Report to Tenaska. If the Volume Charge paid by Tenaska is less than the Reconciled Volume Charge, Tenaska will pay the additional amount owed within thirty (30) days of receipt of the Reconciliation Report.

Additionally, for each one thousand gallons of Metered Water in excess of 2,190,000,000 gallons during the period covered by the Annual Audit Report of the Authority, Tenaska shall pay the City for the raw water at the rate of twenty-five percent (25%) of the then current industrial rate for potable water.

- (c) Adjustment of Minimum Charge. If Tenaska extends this Agreement under the provisions of paragraph 2(a), then that portion of the minimum monthly charge provided for in subparagraph 5(b)(i)(3) for the Extended Term shall be adjusted proportionate to the change in the Consumer Price Index-Urban published by the U.S. Department of Labor Statistics, or its successor, from the Effective Date to the commencement of each Extended Term.

(d) Payment Due Dates; Late Charges. Tenaska shall make each payment provided for by paragraph 5(b) by the 28th of the month in which the invoice has been delivered. If Tenaska fails to pay any amount when due, interest thereof shall accrue at the rate of ten percent (10%) per annum from the date when due until paid.

(e) Termination of Water Service. Subject to the provisions of paragraph 13(k), if Tenaska shall refuse, neglect or fail to pay any amount due under paragraph 5(b), then the City shall have the right to shut off the Supply of Water at the expiration of ten (10) days written notice to Tenaska. The shut off of the Supply of Water shall not release Tenaska from its obligation to make payment of any amount or amounts due or to become due under this Agreement.

6. OTHER USERS. The Parties recognize that the City may have other customers desiring to purchase water from the City using the City's Extended Water System. Subject to City's obligation to serve Tenaska first, the City shall have the right to use the City's Extended Water System to serve water to other customers up to 1.4 MGD, subject also to the condition that doing so will in no way interfere with the City providing the Supply of Water or Tenaska's right to use the Pipeline and the Pump Station as provided in paragraph 2(b), paragraph 2(c) or paragraph 3(d). In addition, City and Tenaska shall then enter into such agreements as may be necessary to meter such customers' water and to provide for a proportionate allocation of the expense of, and the responsibility for, the repair, replacement and maintenance of the Pipeline.

7. CONTINUITY OF SERVICE.

(a) Scheduled Interruptions for Necessary Maintenance. Upon receipt by Tenaska from City of notice prior to any scheduled suspension, interruption, delay, reduction or other interference ("Notice of Interruption") of the Supply of Water ("Interruption, Interrupt or Interrupted"), City may temporarily Interrupt ("Scheduled Interruption") the Supply of Water during (i) a period not to exceed twelve (12) hours which is agreed to by Tenaska prior to such Interruption to correct the reason for the Interruption and (ii) a period not to exceed the length of any shut-down of the Electric Plant scheduled by Tenaska, written notice of which has been delivered in advance by Tenaska to City. Whenever possible, a proposed Scheduled Interruption shall be scheduled during such shut-down of the Electric Plant. The Notice of Interruption shall specify the duration and extent of the proposed Scheduled Interruption in the Water Supply and the reason therefor.

(b) Excusable Interruptions.

(i) If the Supply is Interrupted as a result of an Excusable Interruption (as hereinafter defined), directly affecting the City's Water System then during the Excusable Interruption the City shall not be obligated to deliver the Supply of Water to Tenaska.

- (ii) The term "Excusable Interruption" means acts of God, comets, drought, earthquake, explosion, fire, flood, insurrection, landslide, lightening, meteors, natural calamity, riot, storm, war, washout, unforeseen breakage of Pipeline, or, the cutting of line by a third party beyond the reasonable control of the Party affected.
 - (iii) In the event that either Party is rendered unable, wholly or in part, by Excusable Interruption, to carry out its obligations under this Agreement, except for those obligations requiring the payment of money, and if such Party gives notice stating the reasons therefor to the other Party as soon as practicable after the occurrence being claimed as an Excusable Interruption then, insofar as and to the extent and for such reasonable time that such obligations are so affected (not including those obligations requiring the payment of money) by the Excusable Interruption, the performance obligations of such Party shall be suspended. The suspension of the Party's performance obligations shall be for no longer period than that necessary to cause such inability to be remedied with reasonable dispatch.
- (c) Other Interruptions. In the event of an Interruption, other than a Scheduled Interruption or an Excusable Interruption, that adversely affects the operation of the Electric Plant, then for each day, partial or whole, of such Interruption City shall pay to Tenaska \$1,250. In any such event, Tenaska shall be entitled to set off such amount against any payment to be made to City under this Agreement.
8. TAXES. Each Party shall pay all sales, real or personal property taxes and assessments imposed on such Party pursuant to applicable law or local custom with respect to the activities of generation, transportation, delivery, sale, emission, disposal or use of Treated Water.
9. ASSIGNMENT AND DELEGATION.
- (a) Except as otherwise provided herein, no right or interest in this Agreement shall be assigned by either Tenaska or City without the written permission of the other Party and no delegation of any obligation or of the performance of any obligation by either Tenaska or City shall be made without the written permission of the other Party, which permission shall not unreasonably be withheld; provided, however, nothing contained in this paragraph 9 shall be construed to restrict Tenaska in any manner from freely granting a security interest, transferring in trust, mortgaging, hypothecating, assigning or otherwise transferring Tenaska's right, title and interest, or delegating its duties under this Agreement to any institutional or commercial lender or its collateral agent or other person, its successors or assigns providing credit or loans to Tenaska in connection with the financing, refinancing or operation of the Electric Plant (a "Lender") or construed to restrict any Lender from exercising its

rights or pursuing its remedies available under any loan agreements, security agreements or other instruments or documents between itself and Tenaska or otherwise available to such Lender at law or in equity; and that Tenaska may assign this Agreement, without the prior written permission of City, to Tenaska's Lender(s), and City will execute a consent to such assignment as may be reasonably requested by such Lender(s). Any attempted assignment or delegation shall be void and ineffective for all purposes unless made in conformity with this paragraph 9.

- (b) Either Party may assign its rights and delegate its obligations to any subsidiary or affiliate of such Party provided that no such assignment or delegation releases such Party from any of its obligations.
- (c) This Agreement shall be legally binding upon and shall inure to the benefit of the Parties and their respective legal representatives, successors and permitted assigns.

10. RESPONSIBILITY OF PARTIES.

- (a) Except as expressly limited by any other provision of this Agreement, City shall be solely responsible for payment of all costs and expenses in respect to any and all loss, action, suits, proceedings, claims, liabilities, damages, causes of action, demands, assessments, judgments, penalties, fines, costs and expenses, including attorneys fees (collectively "Damages") that may result or arise from or out of or in connection with (i) any act, error, omission of the City, including any of City's performance or nonperformance of, or under, this Agreement, (ii) any inaccuracy in or breach of or omission from any representation or warranty made by City in this Agreement, and (iii) any nonfulfillment, partial or total, of any of the covenants or agreements made by City in this Agreement. Further, If Tenaska, its officers, affiliates, partners, employees and assigns shall sustain or otherwise incur any damages as described in the preceding sentence, City shall reimburse Tenaska, its officers, affiliates, partners, employees and assigns for any such damages sustained or otherwise incurred by any of them. In any circumstance, where negligence by the Parties is concurrent and contributes to the cause of the same Damages, then each of the Parties shall be responsible and liable to the degree of their own negligence.
- (b) Except as expressly limited by any other provision of this Agreement, Tenaska shall be solely responsible for payment of all costs and expenses in respect to any and all loss, action, suits, proceedings, claims, liabilities, damages, causes of action, demands, assessments, judgments, penalties, fines, costs and expenses, including attorneys fees (collectively "Damages") that may result or arise from or out of or in connection with (i) any act, error, omission of Tenaska, including any of Tenaska's performance or nonperformance of, or under, this Agreement, (ii) any inaccuracy in or breach of or omission from any representation or warranty made by Tenaska in this Agreement, and (iii) any nonfulfillment, partial or total, of any of the covenants or agreements made by Tenaska in this Agreement. Further, if the City, its members

of its governing body, officials, officers, employees and assigns shall sustain or otherwise incur any damages as described in the preceding sentence, Tenaska shall reimburse City, its members of its governing body, officials, officers, employees and assigns for any such damages sustained or otherwise incurred by any of them. In any circumstance, where negligence by the Parties is concurrent and contributes to the cause of the same Damages, then each of the Parties shall be responsible and liable to the degree of their own negligence.

- (c) For purposes of this paragraph 10, the obligation of either Party to reimburse the other for "Damages" shall not include any of the other Party's own lost profits, or exemplary damages.
- (d) The provisions of this paragraph 10 shall survive the consummation of the transactions contemplated by, and the termination of, this Agreement.
- (e)
 - (i) Notwithstanding anything to the contrary contained in this Agreement, City agrees that this Agreement is solely between City and Tenaska, and City agrees that only Tenaska (and not any of its officers, employees or partners) shall be liable for damages or money judgments or a specific performance, whether based upon contract (including this Agreement), warranty, negligence, indemnity, strict liability or otherwise which may result or arise from or out of or in connection with any act, error, omission of Tenaska under this Agreement, including its construction of the Pipeline and the Pump Station, its operation of the Electric Plant or from any inaccuracy in or breach of or omission from any representation or warranty made by Tenaska in this Agreement, or any nonfulfillment, partial or total, of any of the covenants or agreements made by Tenaska in this Agreement.
 - (ii) Notwithstanding anything to the contrary contained in this Agreement, Tenaska agrees that this Agreement is solely between City and Tenaska, and Tenaska agrees that only City (and not any of the members of its governing body or its officers or employees) shall be liable for damages or money judgments or a specific performance, whether based upon contract (including this Agreement), warranty, negligence, indemnity, strict liability or otherwise which may result or arise from or out of or in connection with any act, error, omission of City under this Agreement, including its construction of the Water Intake/Plant Improvements and operation of the City's Water System or from any inaccuracy in or breach of or omission from any representation or warranty made by City in this Agreement, or any nonfulfillment, partial or total, of any of the covenants or agreements made by City in this Agreement.
 - (iii) The Parties agree that any obligations or liabilities of City to Tenaska arising from or out of or in connection with this Agreement are solely the obligations

of City's waterworks and sanitary sewer systems, including the City's Water Facilities, and that any of such obligations or liabilities of City to Tenaska shall never be payable out of any funds raised or to be raised by taxation, and any of such obligations or liabilities of City to Tenaska shall be payable solely as an operating expense of its waterworks and sanitary sewer systems, including City's Water Facilities (except those obligations which are to be funded with proceeds of bonds as provided in this Agreement), and City covenants and agrees to establish, adjust, and revise its rates and charges for the use and services of its waterworks and sanitary sewer systems, including City's Water Facilities, from time to time so that its revenues of such systems shall be sufficient to pay all operating expenses of such systems including obligations of City to Tenaska arising from or out of or in connection with this Agreement.

- (f) Except as expressly provided in paragraph 10(c), nothing in this Agreement shall be construed to preclude either Party from pursuing a remedy against a third party.
 - (g) Specific Performance Remedies. City recognizes the undertakings of City to provide a Supply of Water, all in accordance with this Agreement, are essential to the operation of Tenaska's Plant and that such obligations are obligations for which failure in performance cannot be adequately measured or compensated by money damages alone. City agrees that in addition to all other remedies at law or in equity, Tenaska shall be entitled to the equitable remedy of specific performance of City's obligations to provide a Supply of Water, all in accordance with this Agreement pursuant to mandamus, mandatory injunction or other appropriate judicial remedy to assure specific performance by City.
11. REPRESENTATIONS AND WARRANTIES. The representations and warranties made respectively by the Parties shall remain in existence during the term of this Agreement.
- (a) Tenaska represents and warrants that:
 - (i) Tenaska is a Texas limited partnership organized and existing under and by virtue of the laws of the State of Texas and has the power and authority to own its properties and to carry on the business as presently conducted and as represented in this Agreement; and
 - (ii) This Agreement has been duly authorized, executed and delivered by Tenaska; and Tenaska has all requisite corporate power and authority to execute, deliver and perform this Agreement; and this Agreement constitutes a valid and binding obligation of Tenaska, enforceable in accordance with its terms and conditions; and

- (iii) The execution, delivery, and performance of this Agreement will not violate, or be in conflict with, or result in a material breach of, or constitute a default under, any material agreement, order, judgment, or decree to which Tenaska is a party or by which Tenaska is bound; and
 - (iv) Tenaska will obtain as required any and all lawful authority to construct and operate the Electric Plant; and
 - (v) Tenaska shall cooperate with City as may be necessary to further City's best efforts to obtain any permits necessary for the Pipeline, such as environmental assessments, U. S. Army Corps of Engineers' permits, storm water permits, cultural resources (archaeological) permits, special use permits, and Interbasin transfer permits.
 - (vi) Tenaska represents that its Electric Plant site is not in an area covered by a CCN for water services and Tenaska will use its reasonable best efforts to not be included within the CCN of any entity other than the City of Huntsville.
- (b) City represents and warrants that:
- (i) City is a municipal corporation duly organized, validly existing and in good standing under and by virtue of the laws of the State of Texas and has the corporate power and authority to own its properties and to carry on its business as presently conducted and as represented in this Agreement; and
 - (ii) Except as provided in subparagraphs 11(a)(v) and 11(b)(iii), City has lawful authority to Supply Water as contracted for herein; and
 - (iii) City will use its best efforts to timely obtain all permits, including any Interbasin transfer permit, and all authorizations and all certificates, and all other authorities necessary to permit City to comply with the terms and provisions of this Agreement; and
 - (iv) This Agreement has been duly authorized, executed and delivered by City and that City has the requisite power and authority to execute, deliver and perform this Agreement; and
 - (v) This Agreement constitutes a valid and binding obligation of City, enforceable in accordance with and to the extent of its terms and conditions; and
 - (vi) The source of the raw water supply to be delivered to Tenaska shall be from the intake facilities of the Authority located on Lake Livingston; and

- (vii) City has the authority to acquire through the power of eminent domain all easements, licenses and other interests in real estate which may be necessary or appropriate for City or Tenaska to perform its obligations under this Agreement; and City shall exercise such authority whenever necessary to acquire any such easements, licenses and other interests in real estate; and
 - (viii) The execution, delivery, and performance of this Agreement will not violate, or be in conflict with, or result in a material breach of, or constitute a default under, any material agreement, order, judgment, or decree to which City is a party or by which City is bound.
- (c) Upon written request from Tenaska, City shall promptly deliver to Tenaska a certificate stating that as of the date of the execution of this Agreement and as of the Effective Date, each of City's representations and warranties contained in paragraph 11(b) (i), (ii), (iii), (iv), (v), (vi) and (viii) are true and correct, and City shall deliver an opinion of counsel to the same effect as to City's representations and warranties contained in paragraphs 11(b)(i), (ii), (iii), (iv), (v), (vi) and (viii). City shall concurrently provide Tenaska with a complete transcript of the proceedings evidencing the authority of City to execute and deliver this Agreement, including the incumbency of relevant members of its governing body, officials, officers or employees and compliance with the Open Meetings Laws and all requirements of City's charter.
- (d) At the time of the written request described in paragraph 11(c), Tenaska shall concurrently deliver to City a certificate stating that as of the execution of this Agreement and as of the Effective Date, each of Tenaska's representations and warranties contained in paragraph 11(a)(i) through (iii) are true and accurate, and Tenaska shall deliver an opinion of counsel to the same effect as to Tenaska's representations and warranties contained in paragraph 11(a)(i) through (iii), and Tenaska shall provide City with a complete transcript as may reasonably necessary to evidence the authority of Tenaska to execute and deliver this Agreement, including the incumbency of relevant officers or employees in compliance with all requirements of its partnership agreement.

Other than as provided in paragraphs 2(a), 11(a), 11(b), 11(c) and 11(d), neither Party makes any representation or warranty in this Agreement.

12. WAIVER OF SUBROGATION. Each Party shall ensure that any policy of insurance which it carries as insurance against property damage or against general liability for property damage or bodily injury (including death) that may occur in connection with the construction, maintenance or operation of the City's Water System or any electrical system used in conjunction therewith shall either name the other Party as additional insured or include a waiver of insurer's rights of subrogation against the other Party, its successors and assigns, and the respective directors, officers, employees, agents and representatives of such

other Party and its successors and assigns. Further, to the extent permitted by such policy, each Party shall waive such rights of subrogation. Notwithstanding the foregoing, nothing in this paragraph 12 shall affect the indemnity obligations set forth in paragraph 10.

13. MISCELLANEOUS PROVISIONS.

- (a) Notices. Except as otherwise provided in this paragraph, any notice, request, authorization, invoice, payment, direction or other communication as allowed or required under this Agreement shall be given in writing and may be delivered in person, or by facsimile, or by first class United States certified mail, properly addressed, return receipt requested with the required postage prepaid, to the intended recipient as follows:

TENASKA FRONTIER PARTNERS, LTD.
c/o TENASKA VI PARTNERS, L.P.
ATTN: Mike Lebens
1044 North 115th Street, Suite 400
Omaha, NE 68154-4446
Phone: (402) 691-9500
Fax: (402) 691-9530

CITY OF HUNTSVILLE, TEXAS
ATTN: City Manager
1212 Avenue M
Huntsville, TX 77340
Phone: (409) 291-5400
Fax: (409) 291-5409

In the event a Party utilizes "facsimile" transmitted signed documents, the Parties agree to accept and to rely upon same; and the Party shall provide to the other Party, within 72 hours of transmission, such documents bearing the original signatures. Either Party may change its address or Designated Representative specified above by giving the other Party reasonable notice of such change in accordance with this paragraph. All notices, requests and authorization of directions or other communications by a Party shall be deemed delivered when mailed as provided in this paragraph or personally delivered to the other Party.

- (b) No Partnership. This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, nor to impose any partnership obligations or liability on either Party. Furthermore, neither Party shall have any right, power or authority to enter into any agreement or undertaking for or on behalf of, to act as or be an agent or representative of or to otherwise bind the other Party.

- (c) Nonwaiver. The failure of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect.
- (d) Entire Agreement. This Agreement sets forth the entire agreement, and supersedes any and all prior agreements of the Parties with respect to the subject matter hereof.
- (e) No Specified Third-Party Beneficiaries. Except as otherwise specifically provided in this Agreement, there are no third-party beneficiaries of this Agreement. Nothing contained in this Agreement is intended to confer any right or interest on anyone other than the Parties, their respective successors, assigns and legal representatives, and the third-party beneficiaries, if any, specifically identified in this Agreement.
- (f) Amendment. No change, amendment or modification of any provision of this Agreement shall be valid unless set forth in a written amendment to this Agreement signed by both Parties.
- (g) Implementation. Each Party shall take such action (including, but not limited to, the execution, acknowledgment and delivery of documents) as may reasonably be requested by the other Party for the implementation or continuing performance of this Agreement.
- (h) Invalid Provision. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted; and to this end the terms and provisions of this Agreement are agreed to be severable.
- (i) Applicable Law. This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of Texas, except to the extent such laws may be preempted by the laws of the United States of America.
- (j) Venue. If venue is proper in Walker County, the venue of any litigation arising out of this Agreement shall be in Walker County, State of Texas, or such other place as the Parties may agree in writing.
- (k) Disputes/Default.
 - (i) Prior to either Party's right to claim that the other has defaulted or otherwise breached any obligation or other provision of this Agreement, the Parties shall first attempt to resolve the potential claim of default or breach in accordance with this paragraph 13(k).

- (ii) In the event either Party claims the other is in material default or either Party disputes the validity of any agreement or warranty or representation under this Agreement or the other's interpretation or performance of any provision under this Agreement, including the other's failure to perform (any one or all of which shall be referred to as a "Dispute"), the disputing Party shall notify the other that a Dispute exists, specifying the nature and extent of the Dispute (the "Dispute Notice"). The Dispute Notice shall be delivered to the other Party within ten (10) days after the incident giving rise to the Dispute. The Parties shall then make a good faith attempt to resolve the Dispute. During such attempted Dispute resolution, the Parties shall continue to proceed in good faith and diligently perform their respective obligations under this Agreement.
- (iii) In the event the Dispute is not resolved within twenty (20) days after the delivery of the Dispute Notice, the disputing Party may then take legal action in law or equity subject to the restrictions and limitations imposed by this Agreement; provided, because the Parties agree that the nature and subject matter of this Agreement are so unique City and Tenaska shall also have available the remedy for specific performance.
- (l) Interpretation and Fair Construction of Contract. This Agreement has been reviewed and approved by each of the Parties. In the event it should be determined that any provision of this Agreement is uncertain or ambiguous, the language in all parts of this Agreement shall be in all cases construed as a whole according to its fair meaning and not strictly construed for or against either Party. Whenever used in this Agreement, the term (i) "including" shall mean "including without limitation" whether or not so specified, (ii) "term of this Agreement" shall include an Extended Term if exercised, (iii) "NTU" shall mean a measure of relative light transmission through a sample based on use of a nephelometer turbidity unit, and (iv) "average turbidity" shall mean the turbidity of Treated Water based on daily samples and as reported based upon the sum of the turbidity values obtained over each month divided by the number of samples obtained during the month.
- (m) Counterpart Originals. This Agreement may be executed in one or more counterparts, each of which shall constitute an original but all of which together shall constitute one instrument.
- (n) Survival. Whether or not so specified in this Agreement, the representations, and warranties identified in paragraph 2(a), paragraph 2(b), paragraph 2(c) and in paragraph 11 (other than in paragraphs 11(a)(iv), 11(a)(v), 11(b)(iii), 11(b)(vi), 11(c) and 11(d)), and the remedies and indemnities, including any waivers or limitations thereupon, of City and Tenaska contemplated herein shall survive the expiration or termination of this Agreement.

- (o) Termination for City Default. In addition to any other right of Tenaska to terminate this Agreement, Tenaska may terminate this Agreement for any material breach of, or default under, this Agreement by City, including for any breach of any representation or warranty made by City in this Agreement. Such termination shall be effective thirty (30) days following receipt of written notice ("Notice of Termination") by City from Tenaska specifying such breach or default unless such breach or default is cured within such thirty (30) day period. In the event Tenaska terminates this Agreement pursuant to this paragraph 13(o), Tenaska shall have no further obligation under this Agreement, except as provided in paragraph 10.
14. CONSENT AND AGREEMENT LEGAL OPINION. The City acknowledges that, as a condition of Tenaska obtaining financing for construction of the Electric Plant, Tenaska's Lender(s) will require a collateral assignment of this Agreement. In connection therewith, such Lenders will require the Tenaska to execute a collateral assignment of this Agreement and an estoppel certificate together with a Consent and Agreement, all in a form and substance satisfactory to the Lenders, as well as deliver an opinion from legal counsel as to the organization and standing of the City, the validity and proper execution of this Agreement, and like matters. The City agrees to execute and deliver such Consent and Agreement and to deliver such opinion of legal counsel as such Lenders may reasonably require and in form and substance as the Lenders and City may reasonably agree.
15. OPTION TO TERMINATE. Tenaska may, in its sole discretion, terminate this Agreement upon notice to the City ("Notice of Termination for Convenience"); provided, however, that in the event of such termination Tenaska shall remain obligated to pay to the extent incurred by the City prior to the delivery date of the Notice of Termination for Convenience: (i) the Cost of Financing (in accordance with the terms of the financing instruments, which shall include the right to pay the unamortized principal and accrued interest in a lump sum amount at Tenaska's discretion if the financing instruments so allow); provided that such obligation shall be reduced to reflect Tenaska's share of Treated Water usage of the City's Extended Water System if they are being used by the City to provide Treated Water to customer(s) other than Tenaska, plus (ii) the amount necessary to reimburse the City for any Standby Water Fees that the City is obligated to pay to the Authority under paragraph 5(a)(i) and paragraph 5(a)(iii), plus (iii) any amount due to City pursuant to [paragraph 5(a)(iv) or] paragraph 5(b); provided, that any amount due in connection with the Raw Water charge shall be limited to the amount accrued through the effective date of such termination; plus (iv) those amounts reasonably and necessarily incurred by City in connection with the preparation of the preliminary Plans and Specifications or other documents to be developed in accordance with paragraph 3(a)(iii)(3). The Notice of Termination for Convenience shall notify City of Tenaska's decision to terminate this Agreement as of the date specified in the Notice of Termination for Convenience. A decision to terminate made in accordance with this paragraph 15 shall be enforceable without obligation in the future for Tenaska, except as expressly provided in paragraph 10 or this paragraph 15.

16. INSURANCE. During the term of this Agreement, the Parties shall be obligated to procure and maintain, each at their respective cost and expense, the following policies of insurance:

(a) Insurance to be maintained by City:

- (i) All-Risk Builder's Risk. Until completion of construction of the Water Intake/Plant Improvements, the City shall maintain "All-Risk" Builder's Risk insurance in a form acceptable to Tenaska which includes coverage for flood, earthquake, transit and testing perils in an amount equal to the full replacement value of the Water Intake/Plant Improvements. At Tenaska's option, Tenaska may elect to include the construction of the Water Intake/Plant Improvements under its master builder's risk program.
- (ii) Upon completion of the Water Intake/Plant Improvements and throughout the term of the Agreement, the City shall maintain "all-risk" property and machinery breakdown insurance which includes coverage for flood and earthquake perils in an amount equal to the full replacement cost of the Water Intake/Plant Improvements, Pipeline and Pump Station.
- (iii) Commercial General Liability. Throughout the term of the Agreement, the City will maintain Commercial General Liability insurance for bodily injury (including death) and property damage with a combined single limit of \$1,000,000 per occurrence and in the aggregate. Such insurance shall include but not be limited to coverage for broad-form contractual liability, XCU hazards, broad form property damage liability, personal injury liability, independent contractors, products and completed operations liability.
- (iv) Comprehensive Auto Liability. Throughout the term of the Agreement, the City will maintain Comprehensive Auto Liability coverage with bodily injury (including death) and property damage with a combined single limit of \$1,000,000 per occurrence and in the aggregate.
- (v) Worker's Compensation and Employers' Liability. Throughout the term of the Agreement, the City will maintain Worker's Compensation insurance which complies with the statutory limits of the workers' compensation laws of the State of Texas and Employers' Liability insurance with limits of \$1,000,000 each accident and \$1,000,000 disease policy limit/each employee.
- (vi) Excess Umbrella Liability Insurance. Throughout the term of the Agreement, the City will maintain Excess Umbrella Liability Insurance with a limit of \$1,000,000 per occurrence and in the aggregate.

The City shall also cause its contractor(s) for the Water Intake/Plant Improvements to comply with the above insurance requirements.

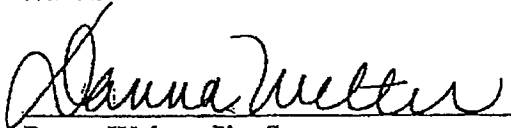
policies of insurance required in Section 16(a)(iii), (iv) and (vi). Tenaska hereby agrees to add the City as an additional insured under the policies of insurance required in Section 16(b)(ii), (iii) and (v).

- (e) Evidence of Coverage. Prior to the commencement of construction, each Party will provide certificates of insurance to the other Party as evidence of the insurance coverages required. In addition, on or before the expiration date of any policy of insurance required under this paragraph 16, the Party will provide certificates of insurance evidencing the renewal of such coverage. All policies of insurance required in this paragraph 16 will provide for 30 days' written notice prior to cancellation except for non-payment of premiums which shall require 10 days' prior written notice.
- (f) Availability of Insurance. If either Party is unable to obtain the required insurance coverages or the required limits of any such coverage are not available in the commercial market on reasonable terms, such Party shall deliver notice of such fact to the other Party, with a description of its reasonable efforts to satisfy such requirement. The obligation to maintain a particular coverage under this Agreement or the limit of such coverage shall be waived or modified (for so long a coverage is not able to be obtained in the commercial market on reasonable terms) but only if the lender then holding the first priority security interest in the Electric Plant has agreed that such coverage is not required to be maintained or that the amount of such coverage may be so reduced.
- (g) Other Insurance. The Parties may elect to purchase additional insurances for its respective interests.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives all as of the day and year first above written.


Attest:

CITY OF HUNTSVILLE, TEXAS


Danna Welter, City Secretary


William B. Green, Mayor

APPROVED:


Scott Bounds, City Attorney

(b) Insurance to be maintained by Tenaska:

- (i) All-Risk Builder's Risk. Until completion of construction of the Pipeline and Pump Station, Tenaska shall maintain, or cause to be maintained "All-Risk" Builder's Risk insurance including coverage for flood, earthquake, testing and transit perils in an amount equal to the full replacement cost of the facilities being constructed.
- (ii) Commercial General Liability. Until such time as the ownership of the Pipeline and Pump Station has been transferred to the City as required by this Agreement, Tenaska will maintain Commercial General Liability insurance for bodily injury (including death) and property damage with a combined single limit of \$1,000,000 per occurrence and in the aggregate. Such insurance shall include but not be limited to coverage for broad form contractual liability, XCU hazards, broad form property damage liability, personal injury liability, independent contractors, products and completed operations liability.
- (iii) Comprehensive Auto Liability. Throughout the term of this Agreement, Tenaska will maintain Comprehensive Auto Liability coverage with bodily injury (including death) and property damage with a combined single limit of \$1,000,000 per occurrence and in the aggregate.
- (iv) Worker's Compensation and Employers' Liability. To the extent that Tenaska has any employees, Tenaska will maintain, until such time as the ownership of the Pipeline and Pump Station has been transferred to City as required by this Agreement, Worker's Compensation insurance which complies with the statutory limits of the workers' compensation laws of the State of Texas and Employers' Liability insurance with limits of \$1,000,000 each accident and \$1,000,000 disease policy limit/each employee.
- (v) Excess Umbrella Liability Insurance. Until such time as the ownership of the Pipeline and Pump Station has been transferred to City as required by this Agreement, Tenaska will maintain Excess Umbrella Liability Insurance with a limit of \$1,000,000 per occurrence and in the aggregate.
- (c) Waiver of Subrogation. The City and Tenaska hereby agree to waive its and its insurers rights of subrogation against the other Party and the City further agrees to waive its rights of subrogation against Tenaska's Lenders and any other parties as reasonably requested by Tenaska.
- (d) Additional Insured Status. The City hereby agrees to add Tenaska and Tenaska's lenders identified to City by Tenaska any time during the term of this Agreement and any other parties as reasonably requested by Tenaska as additional insureds under the

TENASKA FRONTIER PARTNERS, LTD.

By: Tenaska VI Partners, L.P.

Managing General Partner

By: Tenaska VI, Inc.

Managing General Partner

By:

Title:

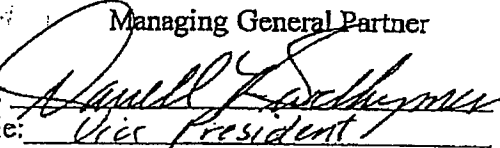

Vice President

EXHIBIT "A" - Huntsville Regional Water Supply System Water Treatment Plant and Intake Improvements

EXHIBIT "B" - Pipeline and Pump Station Improvements

EXHIBIT "C" - Raw Water Supply Contract

EXHIBIT "D" - Trinity River Authority Lake Livingston Laboratory Chemical Analysis Report

EXHIBIT "A"**HUNTSVILLE REGIONAL WATER SUPPLY SYSTEM
WATER TREATMENT PLANT AND INTAKE IMPROVEMENTS
TREATED WATER DELIVERY**

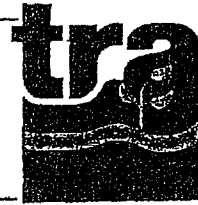
1. Raw Water Pump Station Improvements
 - 2 - new 6-8 MGD pumps
 - 1 - 2 new 4 MGD pumps
 - New pump control valves
 - New electrical switchgear
 - New standby generator capability
 - Instrumentation/Controls
 - Wetwell enclosure
 - New suction line to Trinity River
 - Access Improvements
 - New bridge crane
2. Two 65-foot Diameter Solids Contact Clarifiers with Tube Settlers/Piping/Valves/Additional Chemical Feed/Flow Meter/One New Sludge Holding Pond
3. One treated water splitter box arrangement/Piping/Valves/Controls

EXHIBIT "B"

PIPELINE AND PUMP STATION IMPROVEMENTS

1. 24-inch Water Supply Pipeline system within a 50-ft wide easement with 25-ft wide additional temporary workspace originating at the Pump Station to be located at the Trinity River Authority Huntsville Regional Water Supply Plant and extending approximately 30 miles to the Electric Plant site.
2. Pump Station
 - 3 - 3.5 MGD/400 HP Vertical Turbine, Outdoor Pumping Units with Wetwell and Standby Generator Capability
 - Piping/Valves/Electrical/Controls/Monorail

Trinity River Authority of Texas



Southern Region Office

7005.170

August 10, 2007

Ms. Jerri Weaver
Utility Billing Superintendent
City of Huntsville
1212 Avenue M
Huntsville, Texas 77340

Re: Huntsville Regional Water Supply System
Tenaska Raw Water Billing

Dear Ms. Weaver:

Bill Daugette asked that I pass along to you some information concerning the Tenaska raw water billing. As you know, the Trinity River Authority has a contract with the City of Huntsville to provide water to the Tenaska Power Plant. Each year on a semiannual basis we bill you for the purchase of raw water from Lake Livingston that we in turn treat and deliver to Tenaska. Also, each year you bill Tenaska for this raw water.

The 1998 Raw Water Contract for the Tenaska raw water provides for a rate increase of up to 15% every five years. We increased the rate from \$0.08/1,000 gallons to \$0.092/1,000 gallons in April 2003. This letter is to advise you that we intend to increase the rate another 15% in April 2008 to \$0.1058/1,000 gallons. The calculation for the Tenaska raw water cost that will be billed in our Fiscal Year 2008 that begins December 1, 2007 is as follows:

$(6.0 \text{ MGD} \times 365 \times \$0.092/1,000 \text{ gallons})/2$	= \$100,740	Semiannual payment due in March 2008
$(6.0 \text{ MGD} \times 365 \times \$0.1058/1,000 \text{ gallons})/2$	= <u>\$115,851</u>	Semiannual payment due in Sept. 2008
	<u>\$216,591</u>	

If you should have any questions or require additional information concerning these upcoming billings, please let me know.

Sincerely,

Robert Stevens

ROBERT R. STEVENS
Assistant Regional Manager
Southern Region

in trust

c: Bill Daugette
Frank Garcia
Melanie Weikum

P.O. Box 1554
Huntsville, Texas 77342-1554
(936) 295-5485
Fax (936) 295-9116



CITY OF Huntsville

Incorporated in 1845 under the Republic of Texas

August 11, 2004

Tenaska Frontier Partners, LTD
Attn: Mike Lebens
1044 North 115th Street, Suite 400
Omaha, NE 68154-4446

Re: Raw Water Price Increase Notification

Dear Mr. Lebens:

The attached letter from Mr. Robert Stevens, Assistant Regional Manager with the Trinity River Authority, indicates there has been a price increase in the raw water supply, as authorized in Article 2 of the Huntsville Raw Water Supply Contract (attached). Therefore, beginning with the August billing, your monthly charge for raw water will increase from \$14,600 to \$16,790.

The TRA price increase became effective on April 2003. As a result, the August billing will contain an additional charge of \$35,040 which is the difference of the old charge (\$14,600) and the new charge (\$16,790) over a 16 month period. We sincerely apologize for any inconvenience this pass through cost may cause.

If you should have any questions or require additional information, please do not hesitate to contact me (936)294-5768.

Sincerely,

Bill Daugette
Public Services Operations Manager
City of Huntsville

Attachments (2)

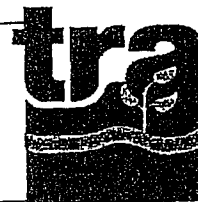
cc: Winston Duke, Director of Finance
Glenn Isbell, P.E., Director of Public Services
Byron Gaines, Water Services Superintendent
✓ Jerri Weaver, Customer Services Superintendent

PUBLIC WORKS DEPARTMENT

445 State Hwy. 75 North • Huntsville, TX 77320-1118 • 936.294.5700 • 936.294.5701 fax • www.huntsvilletx.gov

Our vision for the City of Huntsville is a community that is beautiful, historic, culturally

San Antonio River Authority of Texas



Southern Region Office

7005.100

August 4, 2004

Mr. Bill Daugette
Public Services Operations Manager
City of Huntsville
448 S.H. 75 North
Huntsville, Texas 77320

Re: Huntsville Regional Water Supply System
Raw Water Standby Charges

Dear Bill:

You have asked why the cost for raw water treated at the Huntsville Regional Water Supply System (HRWSS) treatment plant increased in 2003 and 2004. These increases were reflected in the HRWSS FY 2003 and FY 2004 budgets that were provided to the City in advance of each of these fiscal years. However, we should have done a better job of making you aware of these increases and the reason the raw water cost changed. Raw water costs were itemized in the FY 2000, 2001, and 2002 budgets as follows:

10.0 MGD Municipal Water	\$103,300 (This is raw water that is treated for delivery to the City.)
6.0 MGD Industrial Water	<u>\$175,200</u> (This is raw water that is treated for delivery to Tenaska.)
	\$278,500

In the FY 2003 and 2004 budgets, raw water costs were itemized as follows:

	<u>FY 2003</u>	<u>FY 2004</u>
10.0 MGD Municipal Water	\$103,300	\$103,300
6.0 MGD Industrial Water	<u>\$188,340</u>	<u>\$201,480</u>
	\$291,640	\$304,780

You will note that the cost of raw water to the City did not go up, but Tenaska's raw water cost did increase these two years in accordance with the escalation clause in the Raw Water Supply Contract for the Tenaska water.

P.O. Box 1554
Huntsville, Texas 77342-1554
(936) 295-5485
Fax (936) 295-9116

L DAUGETTE
August 4, 2004
/005.100
Page 2

In the April 1999 Raw Water Supply Contract (for the Tenaska industrial water), Article 2 states that the raw water rates may be amended at five-year intervals and that any increase shall be no greater than 15% over the unit price in effect at the time of such increase. I have enclosed a copy of this contract for your review. The rate increased in 2003 from \$0.08/1,000 gallons to \$0.092/1,000 gallons. Because the five-year anniversary was not until April 2003 and the payments are made semi-annually in March and September, the rate increase was only effective during the last half of FY 2003 and the annual standby charge was calculated as follows:

$6.0 \text{ MGD} \times \$0.080/1,000 \text{ gallons} \times 365/2 = \$ 87,600$ due in March 2003, plus
 $6.0 \text{ MGD} \times \$0.092/1,000 \text{ gallons} \times 365/2 = \$100,740$ due in September 2003

The total raw water cost for the Tenaska water in FY 2003 was \$188,340. The \$0.092/1,000 gallon rate was effective for all of FY 2004 and the standby charge calculation for the Tenaska water was:

$6.0 \text{ MGD} \times \$0.092/1,000 \text{ gallons} \times 365 = \$201,480$

This rate will not be escalated during the period from the last half of 2003 through the first half of 2008. However, the total annual standby charge would increase if Tenaska's annual average usage exceeds 6.0 MGD. We apparently did not adequately convey to you the fact that the industrial raw water rate had increased beginning in the last half of 2003 and I regret any inconvenience this may have caused. If you should have any questions or require additional information, please do not hesitate to contact me.

Sincerely,



ROBERT R. STEVENS
Assistant Regional Manager
Southern Region

Enc.

xc Mr. Winston Duke, Director of Finance

Sold for
80

BUSH POWER GROUP LLC

The Woodlands, Texas

Presentation to



March 30, 2007

Revision 3

Slide 1

CONVENTIONAL SOLUTIONS FOR WASTE DISPOSAL ARE SUB-OPTIMAL SOLUTIONS

- LOCAL LANDFILLS
- TRANSPORT WASTE OUT OF COUNTY
- INCINERATION OF MSW
- CO-FIRING OF MSW IN BOILERS
- DIGESTERS
- ARTIFICIAL TIRE REEFS
- DISCHARGE OF TREATED EFFLUENTS
- DISPOSAL OF SEWAGE SLUDGE

March 30, 2007

Revision 3

Slide 2

TRADITIONAL SOLUTIONS FOR LANDFILLS

- ADD MORE LANDFILLS
- TRANSPORT MSW TO REMOTE COUNTIES

BETTER SOLUTIONS RIGHT NOW!

- LANDFILL GAS RECOVERY FOR POWER
- GASIFICATION OF MSW TO DIESEL
- GASIFICATION OF MSW TO POWER

Conventional Solutions – Landfill

Good News

- Immediate capacity
- Minimal capital investment
- Minimal air quality issues
- Minimal pre-sort and grinding

Bad News

- Odor
- Vermin
- Increases threat to ground water
- Hazardous Materials not welcome
- Exhaustion of limited permitted landfill space
- Reduction of property values of adjacent properties
- **Increasing Tax Burden**
- Requires Special Permitting, Monitoring, & Reporting



Plasma Arc Technology

A SUPERIOR SOLUTION

How it works

- Dissociates waste materials into Hydrogen and Carbon atoms
- Creates synthesis gas (syngas: H_2 & CO), building blocks of industrial products, plastics, chemicals, fuels, etc.
- The gasifier is from proven steel mill technology
- Supplies fuel to gas turbine based power plants
- Syngas to Fischer-Tropsch liquids (diesel & ethanol) is proven technology
- Produces desalinated water from brackish or sea water
- Evaporates treated effluent water to atmosphere

Good News

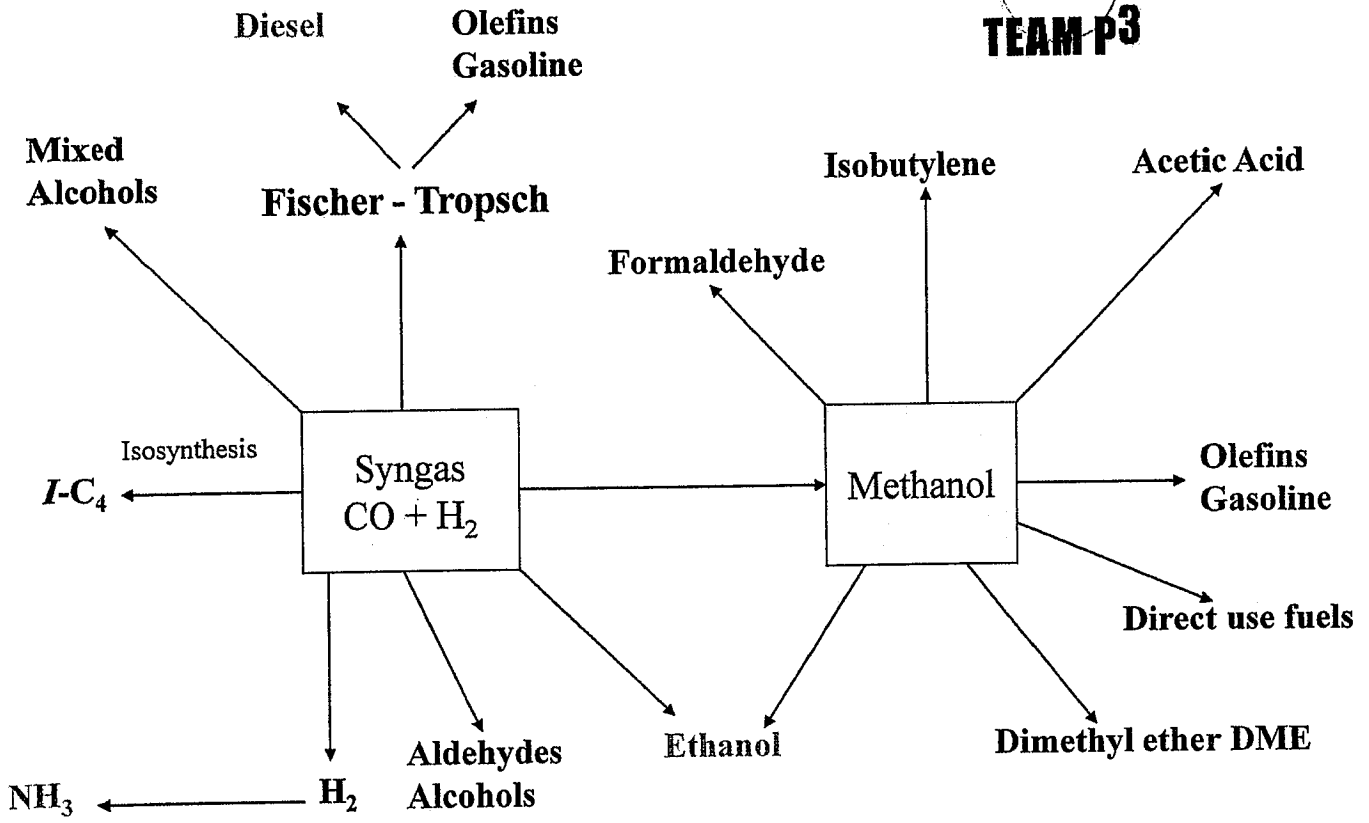
- Locate plant at or near MSW landfill and/or sewage treatment plant
- **Not** burning; **not** an incinerator or boiler
- No emissions from gasifier
- Reduced air & liquid emissions from facility
- Best available technology for destroying hazardous materials per EPA
- Moisture is a good thing in the waste fuel
- No ash is produced
- Recoverable metals and vitrified slag available for sale

Plasma Arc Technology

A SUPERIOR SOLUTION

More Good News

- Can process all carbonaceous waste materials
- 18 to 20 month engineering & construction period (after permitting)
- Can produce many different industrial products:
 - FT Diesel Fertilizer Steam Metal Ingots
 - Electricity Vitrified Slag Ethanol Synthetic Natural Gas
- High carbonaceous materials (e.g. car tires) are a good waste fuel
- Easily scaleable to gasify large amounts of wastes
- 5 tons per hour of waste fuel will produce 12.5 MM gallons/year of ethanol
- 5 tons per hour of waste fuel will produce 7.5 MM gallons/year of diesel
- 20 tons per hour of waste fuel will produce 50 MM gallons/year of ethanol
- 20 tons per hour of waste fuel will produce 30 MM gallons/year of diesel
- 300 plasma arc gasifiers are in use worldwide to dissociate debris
- 70 plasma arc gasifiers in use worldwide to convert debris to end products



Syngas Derivatives With Catalysts

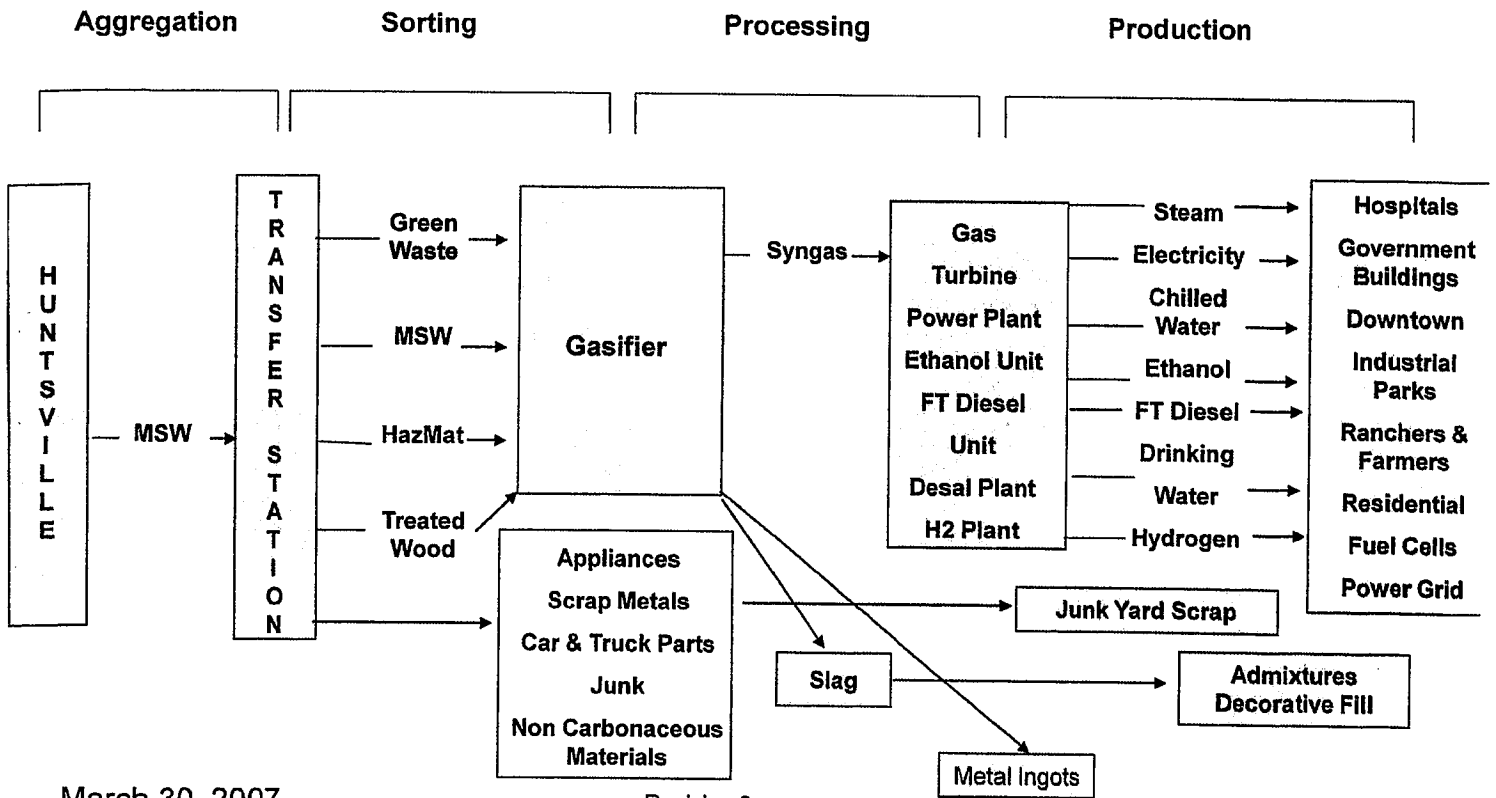
Team P3, LLC
Huntsville, Ala.
Corporate Confidential
July, 2004

March 30, 2007

Revision 3

Slide 7

Integrated Plasma Arc Plant



March 30, 2007

Revision 3

Slide 8

PLASMA POWER PARTNERS LLC

The Right Team At The Right Time



Team P³, a privately owned plasma technology implementation and application company, headquartered in Rock Hill, SC, has extensive knowledge in its proprietary plasma gasification process and technology.

Team P³ will provide highly qualified and experienced people for the design, engineering, manufacturing, and operations and maintenance of the plasma gasification process.

Team P³ has designed, built, and operated plasma gasifiers both domestically and internationally. It is currently developing several waste-to-fuel projects in the US and overseas.



Bush Power Group LLC, of The Woodlands, Texas, a Texas Limited Liability Company, will be the Project Manager responsible for the power plant design and overall integration of the power and utilities to each of the major plant components.

BPG will work closely with Team P³ to ensure that all power and utilities requirements are met.

BPG will oversee the engineering and construction activities of the project EPC.

BPG principals have more than 100 years of domestic & international experience in the design, construction, testing, operation and maintenance expertise in world class sized simple cycle, combined cycle, and cogeneration plants.

The Proposal

1. We propose to study the feasibility of providing a Landfill Gas Recovery and Power Generation Plant on the existing landfill to provide power to the gasifier and export the balance to the grid.
2. We propose to strategically locate and install an integrated gasification plant to convert waste materials to useful products.
 - Plant would be located on or adjacent to the existing landfill.
 - In Phase 1, a 5 ton/hr unit would produce 7.5 MMgal/yr of FT diesel.
 - We could connect to existing power lines at the distribution voltage to supply continuous power or produce peaking power.
 - Waste processing equipment such as shredders, grinders, conveyors, silos, and airborne particle control systems would be provided.
 - Much of the facility would be in architecturally pleasing buildings.
 - A diesel fuel tank farm and truck loading facility will be provided.
3. Plant Sizing
 - The smallest standard gasifier can convert 5 tons/hr of debris.
 - It is possible to provide multiple gasifiers at each site if increased conversion rates are justified.

Bush Power Group LLC Proposition

Form a Mutually Beneficial Partnership with City of Huntsville

- Acquire, permit and develop one or more sites
- Aggregate and sort municipal solid wastes & green waste
- Prepare MSW & green wastes for conversion
- Convert MSW into diesel, and electric power
- Produce inexpensive electricity to attract industrial & commercial business development.
- Produce FT diesel for sale to City, County, & State agencies, local ranchers and farmers.
- Co-develop an industrial park with permitting, energy, chemical, disposal and other services adjacent to gasification plant.
- Provide jobs and job training.
- Provide co-op training and gasification research programs with Sam Houston State University and regional technical colleges.

Bush Power Group LLC Proposition

(continued)

City of Huntsville provides:

- ✓ Debris Delivery
- ✓ Assistance & Support to Secure Permits
- ✓ Space on the existing Landfill Project Site
- ✓ Infrastructure support (scales, access roads, others)
- ✓ Public relations support

Plasma Power Partners provides:

- ✓ Marketing
- ✓ Technology
- ✓ Project Management
- ✓ Operation, Maintenance & Repair
- ✓ Engineering, Procurement & Construction
- ✓ Shared Savings

Economic Benefits

Economic Drivers:

- Cost Savings to City of Huntsville
- FT Diesel (very low or no sulfur)
- Reliable, Inexpensive Power Production
- Provide Jobs and High-Tech Workforce
- Provide Research Opportunities
- Generate Green Energy Credits

Future Municipal

- Energy Autonomy
- Reduce Size of Landfills
- Reduce Cost of Hazardous Material Disposition
- Attract New Businesses to City of Huntsville and surrounding community

Policy Objectives:

- Energy Independence
- Energy Reliability
- Energy Stability
- Distributed Generation

Environmental:

- Reduce Emissions
- Mitigate legacy issues with landfill

Examples of “Feedstock Fuels”

- Municipal Solid Waste (MSW)
- Construction & Demolition Debris
- Ag Wastes, Biomass, Trees, & R.O.W. Debris
- Sewage Sludge
- Used Tires
- Car Fluff from Shredded Vehicles
- Waste Oils & Plastics
- Petroleum Coke
- Refinery & Chemical Plant Waste
- Any Carbon-Based Material

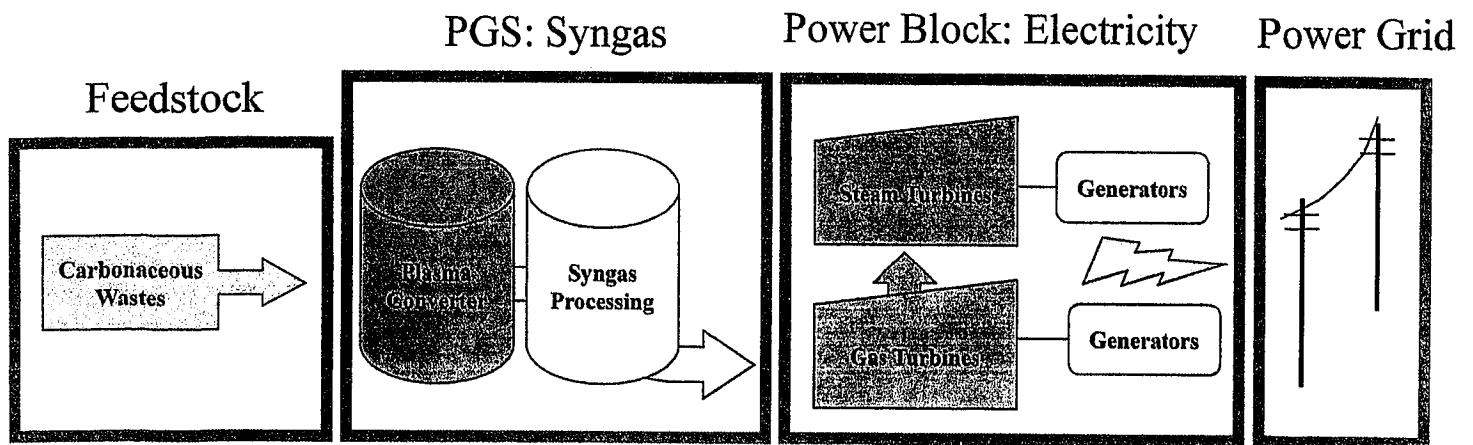
Waste That Cannot Be Accepted At Most Landfills

- X Paint, Liquid Waste, Etc.
- X Tires Are Subject To A Fee, No Limit On Quantity. This Is Limited To Private Individuals Only, Not Businesses.
- X NiCad, Lithium, Lead Acid Batteries
- X Used Motor Oil, Oil Filters
- X Household Hazardous Waste
- X Untreated Medical Wastes
- X Ammunition, Explosives
- X Items Containing Cfc's
- X Fluorescent Light Bulbs

Waste That Can Be Gasified to Syngas, Power & Diesel

- ✓ Paint, Liquid Waste, Etc.
- ✓ Tires Are Subject To A Fee, No Limit On Quantity. Tires from Private Individuals AND Businesses.
- ✓ NiCad, Lithium, Lead Acid Batteries
- ✓ Used Motor Oil, Oil Filters
- ✓ Household Hazardous Waste
- X Untreated Medical Wastes
- X Ammunition, Explosives
- ✓ Items Containing Cfc's
- ✓ Fluorescent Light Bulbs

Major Components of a Gasification IPGCC



An Integrated Plasma Gasification Combined Cycle (IPGCC) Power Generation System

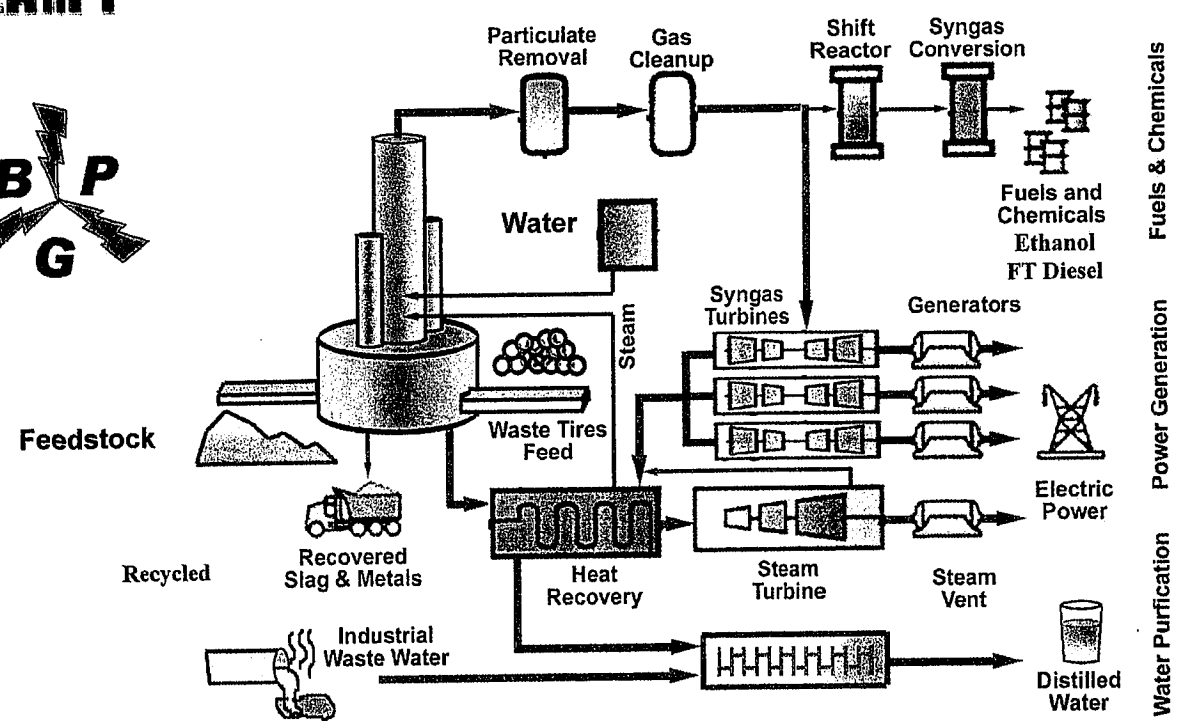
- **IPGCC uses off-the-shelf technology**
- **The gasifier has no emissions**
- **Natural gas / syngas turbines already in use**
- **Turbine emissions already controlled**

An economically feasible, environmentally viable, technically proven solution



IPGCC SYSTEM

Integrated Plasma Gasification Combined Cycle



Converts MSW, Biomass, & Other Wastes
to Ethanol, FT Diesel, Power, Hydrogen, and Clean Water

March 30, 2007

Slide 17

Team P³'s Plasma Generating System (PGS)

- Plasma molten bed technology
- Dual or triple electrode system
- Dissociation -- *not* burning or combustion
- No air emissions from gasifier
- Environmentally compliant
- Can be scaled to site capacity
- Optimized for project feedstocks
- 24 hour sustained operations
- Failsafe, automated control system
- High reliability, limited maintenance
- 20+ year upgradeable life span

Uses 100% Proven Technology

"Hazardous Waste" PGS "Destruction" System

- A plasma generated system based upon:
 - Optimized thermodynamic and process design
 - Advanced plant control systems and instrumentation
 - Real time feedback and control logic software
- Meets all State emissions requirements (including California)
- Freedom from long term liability
- Converts a wide range of organic and toxic substances with little residue to syngas and derivatives:
 - Biomass
 - Municipal solid waste (MSW)
 - Medical waste
 - Contraband
 - Ordinance and chemical weapons
 - PCB's and industrial chemicals
 - Manufacturing waste
 - Biological waste (animal carcasses, etc.) destruction



**Plasma
Gasification
System**

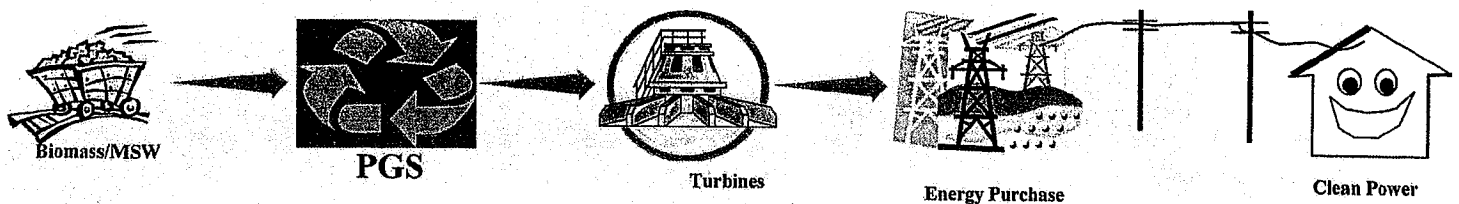
March 30, 2007

Revision 3

Slide 19

“Clean Power” IPGCC

- Uses 100% proven technology
- Base power provider (not a “peaker”)
- Proposed rule by EPA allows for conversion of special and hazardous wastes to energy
- By-products are saleable assets: metals, slag, syngas, potable water, steam, power, FT liquids, etc.
- Syngas created from any combination of municipal solid waste (MSW), coal, petcoke, biomass, car fluff, oily wastes, tires, etc.
- Sell power to local utility
- Base power provider (Operate site 24 / 7 / 365)
- Can leverage existing wastes streams (landfills, etc.) & existing operational permits
- An economically feasible, environmentally complaint, technically proven solution



Economic Considerations

Examples of Potential Savings

Current Situation:

- ☐ Continue to collect and haul MSW @ \$60 per ton
- ☐ Continue to increase cost to taxpayers over time

OR

- ✓ Pay Plasma Power Partners LLC \$30 per ton tipping fee
- ✓ City of Huntsville receives rent for plant site of \$30 per ton
 - 125 tons/day plant consumption = \$3750 per day rent
 - \$1,368,750 per year rent based on 365 days/year
 - \$27,000,000 per 20 years rent
 - Purchase diesel fuel for City of Huntsville at reduced cost

NEXT STEPS

1. Meeting of City of Huntsville Principals
2. Establish List of Priority Issues & Site Layout
 - ✓ Seek funding from Federal, State, USDA Grants & Loan Guarantees
 - ✓ Seek private investment capital
 - ✓ Review Environmental Permits with TCEQ
 - ✓ Public Relations
 - ✓ Proximity to Waste Materials
 - ✓ Heavy Haul Roads
 - ✓ Size of Available Sites
 - ✓ Legal Support
 - ✓ Full Financial & Technical Commitments
3. Evaluate Interconnections
 - ✓ Electrical Voltage & Line Capacity
 - ✓ Natural Gas Pipelines, Hydrogen Gas Pipelines, Diesel Pipelines
 - ✓ Proximity to Existing Hosts: Refineries, Petrochemical Plants, Tank Farms, Fuel Distribution Centers, Rail
4. Prepare Memorandum of Understanding to Proceed
 - ✓ _____
 - ✓ _____
 - ✓ _____